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

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UM 1908 / UM 2206

In the Matter of

LUMEN TECHNOLOGIES,

Proposed Commission action Pursuant to ORS
756.515 to Suspend and Investigate Price Plan
(UM 1908), and

QWESST CORPORATION,

Investigation Regarding the Provision of
Service in Jacksonville, Oregon and
Surrounding Areas (UM 2206)

STIPULATING PARTIES' OPENING BRIEF

13
14 **I. INTRODUCTION**

15 Staff of the Public Utility Commission of Oregon ("Staff"), and Qwest Corporation,
16 United Telephone Company of the Northwest, CenturyTel of Oregon, and CenturyTel of Eastern
17 Oregon (collectively "CenturyLink" or "Company") (together, the "Stipulating Parties") hereby
18 submit this Joint Opening Brief in Support of the Stipulation, which resolves all issues in UM
19 1908/UM 2206. The Public Utility Commission of Oregon (Commission) should approve the
20 Stipulation without modification because it is fair, just, reasonable, in the public interest, the
21 result of a robust negotiation process, and provides an unparalleled level of customer protections.
22 The Stipulation represents a carefully crafted balance of competing interests that the Stipulating
23 Parties support as in the public interest. The Stipulation represents a meaningful compromise
24 between the positions of formerly adverse parties, in furtherance of the Commission's policy to
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1 encourage voluntary resolution of issues “to the extent that settlement is in the public interest.”¹
2 The Commission should therefore approve the Stipulation as a “compromise of different
3 positions” that represents “a reasonable resolution” of the issues. The Stipulation is supported by
4 a robust evidentiary record demonstrating that it is in the public interest and will result in just
5 and reasonable rates.

6 Intervenor Oregon Citizens’ Utility Board (“CUB”) and Priscilla Weaver (collectively, the
7 “Intervenors”), do not oppose the vast majority of the Stipulation and its resulting price plan.
8 For example, they do not oppose the rates set in the Stipulation’s price plan, which uniquely
9 restricts CenturyLink’s ability to raise prices based upon the Company’s performance across a
10 number of service quality measures.² Nor do they oppose the creation of a group of
11 approximately 4,100 “Protected Customers” who will receive enhanced protections to help
12 ensure continuity of their telephone service. Instead, they take issue with just one provision
13 “because it removes the protections in place from Order No. 22-340, as modified by 22-422, and
14 as affirmed by Order No. 23-109 (the Jacksonville Orders)”³ and on that basis argue that the
15 Stipulation is not in the public interest. However, the Jacksonville Orders are no longer
16 necessary and apply only to a very small group of approximately 100 customers. Even so, most
17 of those protections are carried over to the Stipulation and will continue to apply to the rural
18 Jacksonville customers and, in addition, to 40 times more customers who are similarly situated.
19 While the Stipulating Parties and Intervenors support different policy positions as to this single
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25 ¹ In re PacifiCorp, dba Pacific Power, 2010 Transition Adjustment Mechanism, Docket No. UE 207,
26 Order No. 09-432 at 6 (Oct. 30, 2009).

² Transcript of November 15, 2023 Evidentiary Hearing (Tr.) 58, lines 19-24.

³ *Commission Action Pursuant to ORS 756.515 to Suspend and Investigate Price Plan*, Docket No. UM 1908/ UM 2206, CUB’s Objection to Stipulation at 4 (Oct. 24, 2023).

1 provision of a complex and comprehensive Stipulation, there is little to no disagreement in
2 matters of fact or law.

3 II. PROCEDURAL BACKGROUND

4 The Commission approved the Price Plan currently in effect for CenturyLink in Order No.
5 18-359 (“2018 Price Plan”).⁴ The Commission previously approved two additional price plans
6 for CenturyLink in 2014 (Order Nos. 14-345 and 14-347), so the Company has operated under a
7 price plan in Oregon for over nine years. On September 23, 2022, the Commission extended the
8 2018 Price Plan to investigate whether it is in the public interest, instituting “near-term
9 protections” to support customers in rural areas near Jacksonville, Oregon via the Jacksonville
10 Orders.⁵ After a public workshop on January 26, 2023, the parties held nine settlement
11 conferences between February and September of 2023 negotiating terms for Century Link’s price
12 plan.
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14 As a result of these settlement conferences, the Stipulating Parties reached an agreement that
15 resolves all issues. The terms of the settlement are captured in the Stipulation. The Stipulating
16 Parties filed the Stipulation and joint testimony in support of the Stipulation on October 10,
17 2023.⁶ Intervenors filed objections to the Stipulation and supporting testimony on October 24,
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22 ⁴*In the Matter of Qwest Corporation, United Telephone Company of the Northwest, CenturyTel of*
23 *Oregon, And CenturyTel of Eastern Oregon, Joint Petition for Approval of Price Plan Pursuant to ORS*
24 *759.255 and Partial Exemption Pursuant to ORS 759.052, Docket No. UM 1908, Order No. 18-359*
25 *(Sept. 28, 2018).*

26 ⁵ *Commission Action Pursuant to ORS 756.515 to Suspend and Investigate Price Plan, Docket No. UM*
27 *1908/ UM 2206, Order No. 22-340 (Sept. 23, 2022)* <https://apps.puc.state.or.us/orders/2022ords/22-340.pdf>.

⁶ *See Commission Action Pursuant to ORS 756.515 to Suspend and Investigate Price Plan, Docket No.*
28 *UM 1908/ UM 2206, CenturyLink's and Staff's Stipulation*
29 <https://edocs.puc.state.or.us/efdocs/HAR/um1908har155412.pdf>, and Stipulating Parties' Testimony in
30 Support of Stipulation, <https://edocs.puc.state.or.us/efdocs/HTB/um1908htb155258.pdf>.

1 2023.⁷ The Stipulating Parties filed response testimony on November 7, 2023, and the
2 Commission held an evidentiary hearing on November 15, 2023.⁸

3 III. LEGAL STANDARD FOR STIPULATION APPROVAL

4 The Commission will approve settlements that are supported by competent evidence in the
5 record and appropriately resolve the issues in a case.⁹ Settlements provide “value in terms of
6 administrative efficiency by narrowing the range of positions on issues and further developing
7 the record.”¹⁰ The Commission reviews “settlements to determine whether, on a holistic basis,
8 they serve the public interest and result in just and reasonable rates.”¹¹ The Commission’s policy
9 is to support settlements and encourage “parties to voluntarily resolve issues to the extent that
10 settlement is in the public interest.”¹² When a party opposes a settlement, the Commission should
11 “review the issues pursued by that party, and consider whether the information and argument
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14 ⁷ See generally *Commission Action Pursuant to ORS 756.515 to Suspend and Investigate Price Plan*,
15 Docket No. UM 1908/ UM 2206, Priscilla Weaver's Objection to the Stipulation, Priscilla Weaver's
16 Testimony and Exhibits of Priscilla Weaver (Intervenor Weaver/100-101, Weaver), CUB’s Objection to
17 Stipulation, and CUB's Testimony in Opposition to Stipulation and Exhibit of John Garrett (CUB/100-
18 101, Garrett).

17 ⁸ *Commission Action Pursuant to ORS 756.515 to Suspend and Investigate Price Plan*, Docket No. UM
1908/ UM 2206, Staff’s Reply Testimony of Russ Beitzel (Staff/200, Beitzel) and CenturyLink’s Reply
18 Testimony of Peter Gose (CenturyLink/200, Gose); see also *Commission Action Pursuant to ORS*
19 *756.515 to Suspend and Investigate Price Plan*, Docket No. UM 1908/ UM 2206, Memorandum
20 Regarding Schedule (Sept. 27, 2003).

19 ⁹ *In re PacifiCorp, dba Pacific Power, Request for a General Rate Revision*, Docket No. UE 210, Order
20 No. 10-022 at 5 (Jan. 26, 2010); See *In re PacifiCorp, dba Pacific Power, Request for a General Rate*
21 *Revision*, Docket No. UE 374, Order No. 20-473 at 140 (Dec. 18, 2020) (“We find that the stipulation as a
22 whole represents a reasonable resolution of the identified issues . . . and contributes to an overall
23 settlement in the public interest.”); Order No. 09-432 at 6 (“The Commission concludes that the
24 Stipulation is an appropriate resolution of all primary issues in this docket.”); Order No. 10-022 at 6
25 (“When considering a stipulation, we have the statutory duty to make an independent judgment as to
26 whether any given settlement constitutes a reasonable resolution of the issues.”)

23 ¹⁰ *In re PacifiCorp, dba Pacific Power, Transition Adjustment, Five-Year Cost of Service Opt-Out*,
24 Docket No. UE 267, Order No. 15-060 at 3 (Feb. 24, 2015).

24 ¹¹ *In re Portland General Electric Company, Request for a General Rate Revision*, Docket No. UE 394,
25 Order No. 22-129 at 16 (Apr. 25, 2022).

25 ¹² Order No. 09-432 at 6; Order No. 15-060 at 4 (“Although we encourage parties to resolve disputes
26 informally, we must review the terms of any stipulation for reasonableness and accord with the public
interest.”); *In re Portland General Electric Company, 2005 Resource Valuation Mechanism*, Docket No.
UE 161, Order No. 04-573 at 4 (Oct. 5, 2004) (“The Commission encourages parties to a proceeding to
voluntarily resolve issues to the extent that settlement is in the public interest.”).

1 submitted by the party . . . suggests that the settlement is not in the public interest . . . or
2 otherwise is not in accordance with the law.”¹³ Notably, no party asserts that the Stipulation is
3 not in accordance with the law, and the Intervenors take issue with only one provision. Here, the
4 Stipulation meets the Commission’s standards for approval of settlements.

5 **IV. BACKGROUND AND LEGAL STANDARD FOR PRICE PLAN APPROVAL**

6 ORS 759.255 allows a telecommunications utility to petition the Commission for a price plan
7 under which the Commission regulates the prices the utility charges without regard to the return
8 on investment of the utility. Subsection (2) of the statute provides that the Commission must find
9 that a price plan is in the public interest before approving the plan. The statute directs the
10 Commission to consider, among other things, four criteria: whether the plan (A) Ensures prices
11 for telecommunications services that are just and reasonable; (B) Ensures high quality of existing
12 telecommunications services and makes new services available; (C) Maintains the appropriate
13 balance between the need for regulation and competition; and (D) simplifies regulation.
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15 **V. ARGUMENT**

16 **A. The Stipulation satisfies the public interest conditions for approval of a price plan.**

17 Taking both a carrot and stick approach, the Stipulation builds upon prior price plans while
18 introducing more protections for customers across Oregon and incentivizing CenturyLink to
19 provide safe, high-quality service to customers in order to increase prices. Intervenors objecting
20 to the Stipulation argue that since the Stipulation allows for suspension, and possible
21 termination, of the Jacksonville Orders it is not in the public interest. In evaluating whether the
22 Stipulation is in the public interest, the Stipulating Parties encourage the Commission to consider
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26 ¹³ *In re Northwest Natural Gas Company, dba NW Natural, Request for a General Rate Revision, Advice
20-19, Schedule 198 Renewable Natural Gas Recovery Mechanism, Docket Nos. UG 435, ADV 1215,
and UG 411, Order No. 22-388 at 6 (Oct. 24, 2022).*

1 how the criteria articulated in ORS 759.255 are satisfied for all Oregon customers, not just the
2 100 customers impacted by the Jacksonville Orders.

3 *1. The Stipulation ensures prices are just and reasonable.*

4 The Stipulation is a reasonable compromise of the issues and results in just and
5 reasonable rates. It ensures just and reasonable rates through price caps and directly tying pricing
6 flexibility to service quality.¹⁴ CenturyLink’s 2018 Price Plan was found to produce just and
7 reasonable rates for several reasons, including the price caps placed on residential primary line
8 basic service (PLBS) and other services with particular public interest characteristics.¹⁵ The Price
9 Plan in the Stipulation retains these price caps and further limits price increases by tying
10 residential PLBS rates to service quality.
11

12 As described in Stipulating Parties’ opening testimony, pricing flexibility for
13 CenturyLink will not exceed \$3.00 per year or \$12.00 during the term of the price plan.¹⁶
14 Moreover, the level of price increases is further restricted based upon CenturyLink’s
15 performance under three different metrics: 1) repair clearing time (RCT) and trouble tickets (TT)
16 rates evaluated statewide; 2) RCT and TT rates evaluated just for Protected Customers; and 3)
17 statewide National Electric Safety Code (NESC) pole safety compliance.¹⁷ Depending upon its
18 performance under these three service quality metrics, CenturyLink may be denied increases in
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23 ¹⁴ Stipulating Parties/100, Beitzel and Gose/29-30, *citing* Stipulation Attachment A, Section 4 of the Price Plan.

24 ¹⁵ Order No. 18-359, at 5 (describing how CenturyLink’s 2018 Price Plan met requirements to ensure just and reasonable rates; services considered to have public interest characteristics—include toll restriction, call-trace, and residential unlisted numbers—which are either capped at pre-plan rates or otherwise subject to price capped.)

25 ¹⁶ Stipulating Parties/100, Beitzel and Gose/8-10, and 28-29.

26 ¹⁷ Stipulating Parties/100 Beitzel and Gose/28-29, *citing* Stipulation Attachment A, Section 4 of the Price Plan.

1 residential PLBS rates entirely, or may raise those rates in specified amounts up to, but not
2 greater than, \$3.00 per year.

3 None of the prior price plans approved for CenturyLink since 2014 included restrictions
4 on price increases that are based on performance under specific service quality metrics. Because
5 many of the other provisions of the 2018 Price Plan are carried over to the new plan, this unique,
6 ground-breaking aspect of the proposed Price Plan alone shows that it is in the public interest.
7

8 *2. The Stipulation ensures high quality service.*

9 There are several components of the Stipulation that together ensure CenturyLink's
10 Oregon customers will receive high quality service. The Stipulation introduces new service
11 quality measures ensuring that CenturyLink customers will receive high quality service. In
12 evaluating CenturyLink's 2018 Price Plan, the Commission concluded that the requirement to
13 comply with the Commission's service quality rules and its ability to require a corrective action
14 plan if performance dipped below those levels was sufficient to ensure high quality service.¹⁸
15 The Stipulation here goes considerably further than the 2018 Price Plan, and incentivizes the
16 Company to maintain and improve service quality by tying the Company's ability to increase
17 prices to service quality performance; creating a group of Protected Customers; solidifying the
18 role of the dedicated customer service line; and enabling Commission Staff to monitor service
19 quality more closely by requiring more detailed service quality reporting. Along with a
20 corrective action plan, the Stipulation's price plan specifically provides that CenturyLink may be
21 subject to Commission enforcement (like that directed in the Jacksonville Orders) in the event of
22 sustained non-compliance with regard to Protected Customers.
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¹⁸ Order No. 18-359 at 5-6.

1 a. *Tying price increases to service quality metrics.*

2 As described above, CenturyLink’s pricing flexibility is directly tied to service quality
3 metrics. CenturyLink may raise prices as little as \$0.00 and as high as \$3.00 per year depending
4 on their compliance with defined metrics.¹⁹

5 b. *Creation of a new class of Protected Customers and affording them*
6 *additional protections.*

7 Creation of the Protected Customer class that will receive an enhanced level of focus will
8 ensure high quality service for Oregon customers with the fewest competitive options for voice
9 service. While the Jacksonville Orders provide some additional protections for around 100
10 customers,²⁰ the Stipulation’s price plan would provide similar protections for approximately
11 4,100 similarly situated customers across Oregon. The Protected Customers group created by the
12 Stipulation will receive very similar treatment to the customers covered by the Jacksonville
13 Orders.²¹ Protected Customers are those CenturyLink residential local service customers in
14 Oregon who, at their residences, have access to only CenturyLink copper-based wireline service
15 and commercial satellite services to make voice calls. Under the Stipulation, Protected
16 Customers would benefit from additional remedies and reporting requirements not available to
17 customers with additional options to receive voice service.²² Protected Customers will have a
18 dedicated priority customer service access line, like that established in the Jacksonville Orders.²³
19 CenturyLink will file monthly reports with the Commission on trouble tickets and associated
20 repairs for all Protected Customers, providing significant detail as set forth in Attachment E,
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25 ¹⁹ Stipulation Attachment A, Section 4(e) of the Price Plan.

26 ²⁰ CenturyLink/200 at 2.

²¹ Stipulating Parties/100, Beitzel and Gose/20.

²² Stipulating Parties/100, Beitzel and Gose/20-21.

²³ *Id.* at 21.

1 Section III of the Stipulation.²⁴ That detail exceeds the level of reporting presently provided to
2 the Commission, which is further in the public interest. Commission Staff will use this
3 information to analyze and monitor the Company's response time.²⁵ Additionally, the Company
4 will keep a number of handheld satellite phones and make them available for use when a
5 Protected Customer is expected to be without service for longer than 48 hours.²⁶

6 While the remedies available to Protected Customers are based on those in the
7 Jacksonville Orders, implementing those remedies for 4,000 additional customers necessitates
8 some practical changes. Intervenors quibble with the differences and would scrap the additional
9 protections for the new and much larger Protected Customer group in exchange for retaining the
10 Jacksonville Orders, possibly indefinitely. However, the Stipulating Parties believe that
11 extending the core remedies to this much larger group of customers is in the public interest. The
12 two differences between the treatment of customers under the Jacksonville Orders as compared
13 to the treatment of Protected Customers under the proposed the Price Plan are (1) requiring that
14 90% of trouble tickets be cleared within 48 hours, instead of requiring 100% performance as
15 under the Jacksonville Orders, and (2) reporting dedicated repair line contacts on a monthly
16 basis, instead of a bi-weekly basis.²⁷ The Commission would retain identical authority to fine the
17 Company if required, and doing so would take roughly the same amount of time.²⁸

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19 Despite differing views on the appropriateness of repair clearing time standards
20 articulated in the administrative rules,²⁹ Stipulating Parties agree that without an administrative
21 rule revision it is inappropriate to require a repair clearing time standard in the Price Plan
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25 ²⁴ *Id.* at 21-22.

26 ²⁵ *Id.* at 24.

27 ²⁶ *Id.*

28 ²⁷ *Id.*

29 ²⁸ Staff/200, Beitzel/16.

²⁹ CenturyLink/200, Gose/11-18.

1 exceeding the standard articulated in OAR 860-034-0390(6)(b) and 860-032-0012(6)(b). Further,
2 reporting on trouble reports for such customers on a monthly rather than bi-weekly basis is a
3 reasonable accommodation for the significantly increased level of effort involved and would not
4 impede the Commission’s monitoring of the Company’s treatment of Protected Customers.³⁰

5 *c. Expediting the Rural Digital Opportunity Fund (RDOF) Build and*
6 *upgrading feeder facilities to fiber.*

7 While the rural Jacksonville customers will have slightly different remedies as part of the
8 Protected Customers group as compared to those available under the Jacksonville Orders, they
9 alone will experience a substantial improvement in service quality from CenturyLink’s
10 agreement in the Stipulation to expedite construction of a project that will bring fiber optic
11 service to that area. CenturyLink has agreed to highly expedite construction of the RDOF Build
12 which will deliver service over fiber optic cables to rural Jacksonville-area customers.³¹ A key
13 component of that project will be the replacement of a 13-mile, copper-based, T-1 feeder cable
14 from the Jacksonville central office to that area with a new fiber-optic cable. Every one of the
15 CenturyLink customers served off that new cable will see a significant improvement in their
16 service quality even if they do not choose or are unable to receive services by way of the RDOF
17 Build that will bring fiber all the way to their residences.³²

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20 Intervenors quibble with the benefits from the RDOF Build, implying that service quality
21 cannot be considered ‘adequate’ until every resident of the Jacksonville area has fiber to the
22 home and asserting this is a basis for the Commission to reject the Stipulation and price plan.
23 However, this argument is inconsistent with the Commission’s approach to service quality,
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26 ³⁰ Stipulation at 4; Stipulation Attachment C, of the Price Plan.

³¹ Stipulating Parties/100, Beitzel and Gose/25-26; CenturyLink/200, Gose/4; Tr. 76, lines 4-15.

³² Stipulating Parties/100, Beitzel and Gose/25-26; Tr. 75, line 4-76, line 2.

1 which does not require the use of particular methods or infrastructure to reach service quality
2 standards. The Commission cannot demand costly ubiquitous broadband expansion of
3 CenturyLink. All 100 customers covered by the Jacksonville Orders will benefit from
4 replacement of the copper feeder that runs from the Jacksonville Central Office to the 2600 and
5 2900 RTs with fiber.³³

6 *d. Suspension and termination of the Jacksonville Orders is appropriate.*

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8 Intervenor’s principal objection to the Stipulation has to do with Attachment C, which
9 provides a pathway for suspension and termination of the Jacksonville Orders upon
10 CenturyLink’s construction and completion of the RDOF Build. Viewed in the context of the
11 entire Stipulation, including the robust commitments to improving service quality across the state
12 and to the Jacksonville customers, suspension and termination of the Jacksonville Orders as
13 addressed in Attachment C is fair, reasonable, and consistent with the public interest.

14
15 *1. The Jacksonville Orders were intended as near-term solution to service quality issues.*

16 Though the Jacksonville Orders played a significant role in addressing an immediate
17 safety concern, they were never intended to be permanent. In opening an investigation into
18 CenturyLink’s price plan, Staff recommended, and the Commission adopted, “near-term
19 solutions to address the service quality issues” in the Jacksonville area.³⁴ In affirming the
20 Jacksonville Orders, the Commission explained that the Jacksonville Orders did not alter the
21 terms of CenturyLink’s 2018 Price Plan and instead were “meant to ‘address service quality
22 issues experienced by customers in the Jacksonville in the near-term’ until the Price Plan
23 investigation is complete.”³⁵ The Commission further noted that it would next consider the
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26 ³³Stipulating Parties/100, Beitzel and Gose/25-26; CenturyLink/200, Gose/3-7; Staff/200, Beitzel/19.

³⁴ Order No. 22-340, Appendix A, at 8.

³⁵ Order No. 23-109, at 10, *citing* Order No. 22-340, Appendix A at 1.

1 obligations of the Jacksonville orders “through the ongoing price plan investigation.”³⁶ The
2 Jacksonville orders were considered extensively in the settlement process and provided crucial
3 guidance for crafting the Stipulation.

4 *2. Suspension of the Jacksonville Orders is appropriate for inclusion*
5 *in the Stipulation.*

6 As discussed above, the Stipulation provides a significant incentive for CenturyLink to
7 improve service quality to all Oregon customers because the Company’s ability to increase rates
8 directly depends upon its performance under a number of service quality metrics. The
9 Stipulation also creates new protections for a large group of Protected Customers, expanding
10 most of the protections afforded to the rural Jacksonville customers to a much larger group. The
11 Stipulation also incentivizes CenturyLink to expedite the RDOF Build.

12 The principal trade-off for these substantial benefits is that the Stipulation provides a
13 pathway for suspension and termination of the Jacksonville Orders. Rural Jacksonville
14 customers will continue to have significant protections as Protected Customers for the duration
15 of the Price Plan and will also experience improvements in service quality when the RDOF Build
16 is completed. In reviewing the Stipulation, the Commission must consider its contribution to
17 improved service quality for *all* customers covered by the Stipulation, not just the 100 rural
18 Jacksonville customers. The Stipulation covers four different CenturyLink ILECs and all of the
19 Company’s customers in Oregon. Providing improved service to all Oregon customers is a
20 reasonable trade-off for suspending some of the specific remedies for the relatively few rural
21 Jacksonville customers.
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³⁶ *Id* at 20.

1 3. *It is appropriate to suspend the Jacksonville Orders at the*
2 *beginning of the RDOF Build.*

3 Service quality to rural Jacksonville customers has improved since the Commission
4 issued the Jacksonville Orders.³⁷ CenturyLink has restored service 100 percent of the time within
5 48 hours of receiving a trouble ticket, with the exception of one force majeure event in the fall of
6 2023.³⁸ CenturyLink continues to invest in maintaining and replacing its plant serving rural
7 Jacksonville customers, and will continue to do so.³⁹ Suspending the Jacksonville Orders once
8 CenturyLink commences construction of the RDOF Build provides an important incentive for
9 CenturyLink to commence that construction at the earliest possible time. Indeed, the Company
10 is already working toward that goal.⁴⁰

12 Moreover, completion of the RDOF Build will substantially improve service quality to all
13 rural Jacksonville residents served off the new fiber feeder cable even if they do not receive fiber
14 all the way to the residence. Thus, it is logical to suspend the orders once that build is
15 commenced and then to terminate them once the build is completed.

17 4. *The Stipulation will not survive if the Jacksonville Orders are*
18 *made indefinite in duration, as CUB proposes.*

19 CUB proposes that the Commission reject the provisions of the Stipulation that suspend
20 the Jacksonville Orders upon commencement of the RDOF construction and terminate them
21 upon completion of the construction. In place of this key provision, CUB proposes that the
22 Jacksonville Orders remain in full force and effect indefinitely. Under CUB’s proposal, the
23 earliest date when CenturyLink may request termination of the orders is six months after RDOF

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26 ³⁷ Staff/200, Beitzel/19, *citing* Intervenor/100, Weaver/3.

³⁸ Tr. 56, lines 8-11.

³⁹ Tr. 74, lines 8-23.

⁴⁰ CenturyLink/200, Gose/4; Tr. 29, lines 8-14; Tr. 76, lines 12-15.

1 construction is complete.⁴¹ CUB offers no assurance that it will not continue to oppose
2 termination of the Jacksonville Orders, and its advocacy in this case (namely, that the orders
3 have been effective and thus must remain in place) suggests that it and Ms. Weaver will continue
4 to push for the orders to remain in place indefinitely or permanently.⁴²

5 In its testimony in support of the Stipulation, CenturyLink made clear that it would not
6 agree to the Stipulation, if amended by the Commission in accordance with CUB's proposal.⁴³
7 In that eventuality, citizens across Oregon will lose the substantial benefits the well-balanced
8 Stipulation ensures. The Commission should reject CUB's proposal, among other reasons,
9 because it deprives the Stipulating Parties, and Oregon customers generally, the benefits
10 achieved by the delicate balance in the Stipulation.
11

12 *3. The Stipulation appropriately balances regulation and competition.*

13 CenturyLink faces significant competition throughout Oregon. CenturyLink has lost at
14 least 90% of its regulated access lines in Oregon since 2001.⁴⁴ The Stipulation and Price Plan
15 recognize that Oregon customers in CenturyLink's service territory can choose, and in many
16 instances have chosen, carriers other than CenturyLink, and therefore, traditional cost of service
17 regulation of CenturyLink is not appropriate. The Stipulation's Price Plan is intended to ensure
18 adequate pricing flexibility for CenturyLink so that it may respond to competitive pressures and
19 allow it to try to maximize its revenues with light regulation for most of its services. The plan
20 provides both upward and downward pricing flexibility for nearly all of CenturyLink's offerings,
21 but will still enable the Commission to investigate and take remedial action at any time if it were
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26 ⁴¹ CUB/100, Garrett/24.

⁴² CenturyLink/200, Gose/9-11.

⁴³ CenturyLink/200, Gose/2.

⁴⁴ CenturyLink/200, /Gose/13.

1 to find that further adjustments to the price plan or termination of the price plan is required by
2 the public interest.⁴⁵

3 4. *The Stipulation simplifies regulation.*

4 If the Commission approves a price plan under ORS 759.255, section (5) of that statute
5 allows waiver, in whole or in part, of a telecommunications utility's compliance with certain
6 enumerated statutes. In addition, OAR 860-022-0000(2), OAR 860-025-0000(2), OAR 860-026-
7 0000(2), OAR 860-027-0000(2), and OAR 860-034-0010(1) allow the waiver of any of the
8 Division 22, 25, 26, 27, or 34 rules for good cause. The Price Plan in the Stipulation describes
9 the requested waivers which will simplify regulation of CenturyLink.⁴⁶ These are substantially
10 identical to the waivers under which the Company has operated under the 2018 Price Plan.
11

12 **VI. CONCLUSION**

13 The Stipulation resolves all issues in this proceeding and is in the public interest. The
14 Stipulating Parties request that the Commission adopt the Stipulation in its entirety.
15

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18 DATED: December 1, 2023

X Natascha Smith
Natascha Smith, OSB # 174661
Assistant Attorney General
Of Attorneys for Staff of the Public Utility
Commission of Oregon

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21 DATED: December 1, 2023

Lawrence Reichman
Lawrence Reichman, OSB #860836
PERKINS COIE LLP
representing CenturyLink

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26 ⁴⁵ ORS 756.515 permits the Commission to investigate whether the public interest requires adjustments or
termination of the price plan. The Commission may make price plan adjustments after providing notice
with opportunity for a hearing.

⁴⁶ Stipulation Attachment A, Section 13 of the Price Plan.