

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1908, UM 2206

IN THE MATTER OF
LUMEN TECHNOLOGIES

INTERVENOR'S RESPONSE TO
LUMEN'S REQUEST TO CLARIFY OR
RECONSIDER RULING DATED SEPTEMBER
29, 2022 AND, IN THE ALTERNATIVE, TO
CERTIFY THE RULING TO THE COMMISSION

Intervenor Priscilla Weaver relies on the Citizens' Utility Board's Response filed on October 31, 2022, as to the various issues under the rules in OAR and statutes applicable to this matter and CUB's other legal arguments. Intervenor responds here as to the procedural issues of what evidence, and from whom, will be utilized and admitted, as follows:

Lumen seeks to exclude the first-hand information of outages and efforts to report outages from any customer who does not formally intervene and otherwise comply with unspecified evidentiary requirements. And Lumen apparently also wants to exclude the extensive evidence gathered from several customers and previously submitted by Intervenor. For any one of several reasons, Lumen should not be allowed to keep out this critical information, either directly or by creating unwarranted barriers that in their impact will intimidate customers from participating.

1. Lumen has waived any right it may previously had to object.

Numerous customers, and not just this Intervenor, have been reporting outages to both Lumen and the PUC since at least November 2021 when we filed the original complaint in the current chapter of this controversy. Intervenor has personally tried to attend every PUC meeting and

the August 30 working session to provide additional details about the outages. My community has tried with very little success to use Lumen's various "outage reporting" mechanisms, both by phone and online. We have done everything we possibly can to alert both Lumen and the Commission to the outages and reporting difficulties.

Not once in any of the PUC meetings, not once on any of the customers' reporting attempts, not once in any Lumen submission until after the Commission issued Order 22-340 -- never did Lumen even suggest that any of the outage reports were incorrect or insufficient because they weren't "first-hand" or sworn, or that any of the outages and outage reporting problems did not happen when and how the customers reported them, either directly or through our submissions. For example, our original November 21, 2021, complaint letter to the PUC that prompted this investigation detailed the eleven 2021 outages year-to-date, including the 8-day outage over Labor Day. (We didn't know then that we would not have phone service on Christmas Day and thereafter). Nearly a year later, Lumen has never challenged either the fact or duration or details about any of those outages or about any of our efforts to report this and receive prompt repairs.

For Lumen now to insist that each affected customer file a petition to intervene and then go back and try to remember and reconstruct each outage with "first-hand" knowledge is nothing more than Lumen's latest attempt to avoid accountability. By waiting for almost a full year to lodge this objection, Lumen has waived any right it might otherwise have had to insist on formal submissions from each affected customer.

2. Lumen is estopped to challenge evidence previously submitted to the PUC.

For the same reasons, Lumen should be estopped to deny the admissibility of comments, reports, and other evidence submitted by any customer, including this Intervenor, to date in this proceeding. We all have relied on Lumen's obvious admissions of its outages, admissions made via their emails and text messages, their own submissions to the PUC, and most glaringly, the presence of their repair trucks on our roads and at the substation in Jacksonville on literally dozens of days over the last two years. To suggest the outages have not been "proven" is disingenuous at best.

3. Customers have relied to their detriment on both Lumen's actions and the procedures for commenting set out on the PUC website.

It would be manifestly unfair to exclude any of the customers' comments/evidence by retroactively imposing the burden of meeting an evidentiary standard that neither Lumen nor the PUC alerted us to or by imposing such a burden going forward. Nothing in Lumen's printed or website information to its customers warns that we can complain to Lumen about an outage or the pace of repair, but that if the complaint ends up with the PUC, all of a sudden our accumulated online or "800" outage reports become too unreliable to use as evidence of Lumen's failure to provide the reliable phone service we agreed to pay for. And nothing on the PUC website cautions customers that their comments/submissions can only be used to hold their land line provider accountable if the customer is prepared to jump through multi-faceted procedural hoops.

In addition, Lumen of course already knows when their land line system in our area is completely non-functional or unacceptably intermittent – it's their system after all, both the wiring and other hardware and their "800" and online reporting systems.

To now require recreating the details of every outage and reporting attempts when Lumen already has this information places all of us in a catch-22 that is completely at odds with the structure and purpose of the Commission and the system of administrative review and is not what basic notions of fair play require.

Lumen is required by law to provide reliable land line phone service. That's what we are paying for. We have more than sufficiently brought Lumen's specific failures into this proceeding. If Lumen seriously contends those outages and reporting problems did not happen, they are the ones who should be required to prove it.

Respectfully submitted,



Dated: Nov. 1, 2022

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