

July 2nd, 2015

Notice of Intent to File Petition

To: Attached Service List

Re: Breach of Interconnection Agreement

PLEASE BE ADVISED that pursuant to the Oregon Administrative Rule 860-016-0050, Eltopia Communications, LLC. ("Eltopia") intends to file a petition with the Oregon Public Utility Commission ("Commission") for enforcement of the Local Interconnection Agreement ("ICA") between CenturyLink Corporation ("CenturyLink") and Eltopia, no less than ten ("10") days from the date of this Notice. Specifically, Eltopia will seek injunctive relief to enforce CenturyLink's obligations to follow ICA procedures and provide services to Eltopia until the Parties resolve outstanding disputes.

Section 7.3.1.1.3.1 of ICA provides as follows:

The provider of the LIS two-way Entrance Facility (EF) will initially share the cost of the LIS two-way EF by assuming an initial relative use factor (RUF) of fifty percent (50%) for a minimum of one (1) quarter if the Parties have not exchanged LIS traffic previously. The nominal charge to the other Party for the use of the EF, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other Party will be according to this initial relative use factor for a minimum of one (1) quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor, based upon actual minutes of use data.

Section 5.18.1 of the ICA provides as follows:

The Parties will attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of, or relating to, this Agreement. Either Party may give written notice to the other Party of any dispute not resolved in the normal course of business. Each Party will within seven (7) Days after delivery of the written notice of dispute, designate a vice-president level employee or a representative with authority to make commitments to review, meet, and negotiate, in good faith, to resolve the dispute.

Section 5.4.3 of the ICA provides as follows:

The Billing Party may disconnect services for failure by the billed Party to make full payment, less any good faith disputed amount as provided for in Section 5.4.4 of this Agreement, for the services provided under this Agreement within sixty (60) Days following the payment due date... For reconnection of the services to occur, the billed Party will be required to make full payment of all past and current undisputed charges under this Agreement for the services.

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CenturyLink failed to negotiate changes to the Parties Relative Use Factor (“RUF”). Once Eltopia was notified and billed the new RUF, Eltopia promptly disputed additional charges and requested details, which should have initiated procedure under the ICA Dispute Resolution clause. Eltopia has disputed all additional charges resulting from CenturyLink’s unilateral changes to the RUF from 2011 to the present date while paying all non-disputed charges. Regardless of the ongoing dispute, CenturyLink recently notified Eltopia that services would be suspended unless payments, including disputed payments, are made in full. After several years of acknowledging this dispute, CenturyLink no longer recognizes Eltopia’s dispute and has filed Notice of Suspension of Service Order Activity.

CenturyLink may not unilaterally change the RUF without agreement from Eltopia. Section 7.3.1.1.3.1 of ICA requires that “the initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor, based upon actual minutes of use data.” Agreement on the RUF requires traffic between parties to be analyzed, agreed upon, and then applied to the calculation. Eltopia never agreed to results of an analysis proposing changes to traffic as applied to the RUF.

Additionally, CenturyLink failed to follow the Dispute Resolution process by failing to engage necessary representatives to negotiate the dispute for almost one and one-half (1.5) years after the initial dispute. Section 5.18.1 states “Each Party will within seven (7) Days after delivery of the written notice of dispute, designate a vice-president level employee or a representative with authority to make commitments to review, meet, and negotiate, in good faith, to resolve the dispute.” Eltopia began disputing the additional charges immediately in August of 2013 while consistently requesting invoices to qualify back-billed charges. To this day and despite several requests, Eltopia has not received amended invoices for services provided prior to August of 2013. The written and acknowledged dispute should have, but did not, insure communications with decision-making parties from CenturyLink within 7-days.

Finally, CenturyLink must stop threatening to suspend services to Eltopia until the dispute is resolved. CenturyLink may only suspend services to Eltopia when undisputed bills are not paid as outlined in ICA 5.4.3. Eltopia continually pays undisputed invoices and “in good faith” disputes additional RUF charges. CenturyLink recognized Eltopia’s dispute three weeks ago while engaging in negotiations. Once the Parties failed to reach a resolution, Eltopia was sent the following notice:

Please be advised that Eltopia Communications LLC has undisputed past due balances on its CenturyLink account(s). This letter constitutes written notice of non-payment as may be required under applicable contract, tariff and/or state utility commission rules and regulations. Failure to respond to this letter or submit payment will result in additional treatment activity (discussed below) being initiated thirty (30) days after the date of this letter.

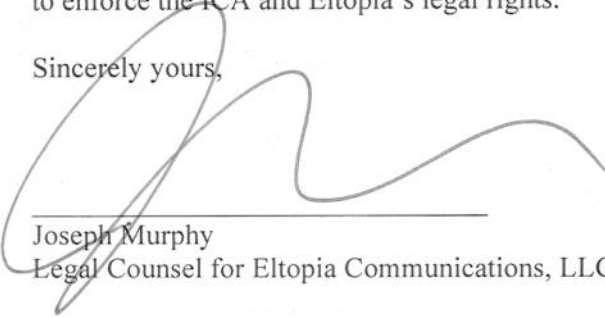
The total undisputed past due balance on your CenturyLink account(s) as of today is \$126,292.89. These balances could be associated to both active and inactive accounts. If CenturyLink does not receive payment in full on or before 07/09/2015, CenturyLink will suspend all service order activity for Eltopia Communications LLC, effective 07/13/2015 and begin the disconnection process of all Eltopia Communications LLC's services.

The charges of \$126,292.89 referenced in the Notice are still in dispute and are either incorrectly or fraudulently labeled as undisputed by CenturyLink. The Notice is inaccurate and Eltopia continues disputing additional charges related to RUF. If services are discontinued, CenturyLink will be violating ICA 5.4.3 by forcing Eltopia to pay disputed amounts restoring necessary services.

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CenturyLink is violating the ICA by failing to seek Eltopia's agreement changing the RUF then following procedure when Eltopia disputed unauthorized charges. Now, CenturyLink is inaccurately labeling disputed amounts as undisputed, authorizing service suspension under the ICA. If CenturyLink continues to refuse compliance with legal obligations under the ICA, Eltopia will seek to file a petition with the Commission seeking to enforce the ICA and Eltopia's legal rights.

Sincerely yours,



Joseph Murphy
Legal Counsel for Eltopia Communications, LLC

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SERVICE LIST

Director Wholesale Contracts
930 15th Street 6th Floor Denver, Co 80202
Email: Intagree@CenturyLink.Com
Phone: 303-672-2879

Via – Email and Legal Messenger

CenturyLink Law Department
Associate General Counsel, Interconnection
1801 California Street, 9th Floor
Denver, Co 80202
Email: Legal.Interconnection@CenturyLink.Com
Phone: 303-383-6553

Via – Email and Legal Messenger

Jeffrey T. Nodland
Senior Associate General Counsel
CenturyLink Legal Department
Suite 900
1801 California Street
Denver, Colorado 80202

Via - Email

Filing Center
Oregon State Utility Commission
PO Box 1088,
Salem, OR 97308-1088
PUC.filingCener@state.or.us

Via – Email