

BEFORE THE PUBLIC UTILITY COMMISSION

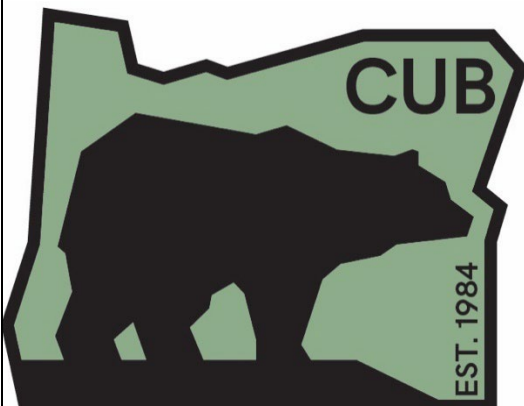
OF OREGON

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

**PREHEARING BRIEF
OF THE
OREGON CITIZENS' UTILITY BOARD**

December 13, 2022



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OF OREGON
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I. INTRODUCTION

Pursuant to Administrative Law Judge (“ALJ”) Moser’s November 4, 2022, Ruling, the Oregon Citizens’ Utility Board (“CUB”) hereby submits its Prehearing Brief in the above-captioned proceeding. On September 27, 2022, Lumen Technologies, Inc. (“Lumen” or the “Company”) filed its Request for Hearing Pursuant to ORS 756.515(5) and asked for a hearing to determine whether the Public Utility Commission of Oregon’s (“Commission”) September 23, 2022 Order No. 22-340 is lawful and whether it should remain in effect. On October 28, 2022, the Commission issued Order No. 22-422 (“Modified Order”) which modified Order No. 22-340,

¹ Formerly known as Qwest Corporation, United Telephone Company of the Northwest, CenturyTel of Oregon, and CenturyTel of Eastern Oregon.

after giving parties notice and opportunity to respond. Lumen provided comments that the proposed modification did not change its position on the lawfulness of the decision. In this Brief, CUB will show that Order No. 22-340 as modified by Order No. 22-422 (the “Order”) is lawful and should remain in effect.

A. Background and Procedural Posture

Since at least 2014, Lumen has had service quality issues in the Jacksonville, Oregon area, and Staff has given the Company a lot of time and opportunity to remedy the ongoing issues.² In 2017, after investigating service quality issues and working with Lumen to try to remedy them, staff found that the Jacksonville region provided an example of the “chronic repair problems and the time it took Qwest to remedy the problem presented a potential public safety concern.”³ The Commission issued Order No. 17-175 in docket UM 1836, directing the Company to develop a performance plan outlining steps for compliance.⁴

When Staff reviewed Lumen’s compliance plan in July 2017, they noted that Qwest stated it does not need service quality requirements, to which Staff responded that “[t]his isn’t helpful because the relevant statute clearly identifies specific metrics for which the Commission must create standards. In its filing, the Company takes considerable effort to criticize Commission standards.”⁵ The Commission concluded that Lumen submitted a plan that may

² *In the Matter of Qwest Corporation, United Telephone Company of the Northwest, CenturyTel of Oregon, and CenturyTel of Eastern Oregon, Joint Petition for Approval of Price Plan Pursuant to ORS 759.255 and Partial Exemption Pursuant to ORS 759.052*, Docket No. UM 1908, Staff/100, Bartholomew/4 (Oct. 23, 2017).

³ *In the Matter of Qwest Corporation dba Centurylink QC, Service Quality Performance Plan*, Staff Report for May 16, 2017 Public Meeting, UM 1836 (May 11, 2017).

⁴ UM 1908 – Staff/100, Bartholomew/4; Staff/105, Bartholomew/1-15.

⁵ UM 1836 - Staff Report for the July 25, 2017 Public Meeting (July 12, 2017).

remedy the service quality standard deficiencies and set a six-month review period with an end date of March 15, 2018.⁶

In October 2017, Lumen filed a petition for Commission approval of a Price Plan, setting the prices Lumen charges telecommunication services, in docket UM 1908.⁷ In September 2018, the Commission found the Stipulation and Plan submitted by parties met the statutory criteria, and issued Order No. 18-359 approving the parties' agreement.⁸ The Stipulation and Price Plan explicitly states that Lumen will continue to be subject to the Commission's service quality rules.⁹ It also reiterates that the Commission may open an investigation at any time, including to determine if adjustments or termination of the Price Plan is required by the public interest pursuant to ORS 759.255(2).¹⁰ This is Lumen's current Price Plan.

In April 2018, Staff found Lumen had made progress on its performance plan in UM 1836, but since deficiencies remained. The Commission adopted Staff's recommendation to extend the performance review period another six months, allowing Lumen until January 15, 2019, to file an updated compliance report.¹¹ There is no record that this compliance report was filed in docket UM 1836.

In November 2021, Lumen customer Priscilla Weaver emailed the Commission Staff ("Staff") and Commissioners about customer complaints on Lumen's ongoing and prolonged outages and the threats the Company's inaction has to customers' safety.¹² Staff determined that given the history of service quality issues and those ongoing and on December 14, 2021, the

⁶ UM 1836 – Order No. 17-288 at 5 (July 19, 2017).

⁷ UM 1908 – Lumen's Request for Hearing Pursuant to ORS 756.515(5) (Oct. 23, 2017).

⁸ UM 1908 – Order No. 18-359 at 8.

⁹ UM 1908 – Order No. 18-359 at 5.

¹⁰ UM 1908 – Order No. 18-359 at 6, and Appendix A at 10.

¹¹ UM 1836 – Order 18-198, Appendix A at 5 (May 30, 2018).

¹² UM 1908 – Staff/105, Bartholomew/98-101.

Commission directed Staff to open an investigation into Lumen’s service in the Jacksonville, Oregon area in Docket UM 2206, stating:

Unfortunately, the solutions implemented in response to the performance plan adopted in Order No. 17-175 do not appear to have provided a durable solution to the issues present in the Jacksonville exchange. As evidenced by the information provided in the November 21, 2021 letter, unresolved issues remain. Most recently, on August 30, 2021, CenturyLink dispatched a team to try and remediate the cable plant, but the issues remain unsolved.¹³

On February 14, 2022, Staff gave a report to the Commission on steps Lumen had taken to resolve those issues and steps that it still needed to take and noted that other customers in the area had been experiencing “serious safety and reliability issues.”¹⁴ When Staff sent Lumen a six-step cable plant restoration process which if completed would bring the cable plant to “like new” conditions, Lumen’s response was that the work completed during the summer of 2021 brought their plant back to standard and it is now stable, and that the issue is the backup batteries and once replaced, the telephone services will then remain stable.¹⁵ On December 24 and 25, several customers reported outages to Lumen and were without adequate telephone service for 2-3 days.¹⁶

Lumen representative Peter Gose stated that service outages in 2020/2021 were mostly due to infrastructure, referencing an “old outdated plant, remote terminal” from the 1980s.¹⁷ Goss stated the new batteries ordered in November 2021 were delayed due to supply chain

¹³ *In the Matter of QWEST CORPORATION, Investigation Regarding the Provision of Service in Jacksonville, Oregon and Surrounding Areas*, OPUC Docket No.UM 2206, Order No. 21-470, Appendix A at 3 (Dec. 20, 2021).

¹⁴ UM 2206 – Staff Report for the February 22, 2022 Public Meeting at 4.

¹⁵ *Id.* at 2-3.

¹⁶ *Id.* at 2.

¹⁷ UM 1908 – Staff/100, Bartholomew/14.

issues, but they managed to find batteries on January 5 and those should be sufficient until the new batteries arrived in a couple months.¹⁸

As part of this investigation, Staff issued Information Requests requesting information on service in the Jacksonville area. The Company asked for a 2-day extension to respond given the information requested went back to 2014. Those responses were incomplete, including not providing information from 2014, despite the extension.¹⁹ At the Regular Public Meeting on February 22, 2022, Staff reported to the Commission that customers in Jacksonville have been experiencing service issues since at least 2016, and the Company only took two steps to resolve the issues and that was in 2021.²⁰ The Commission directed Staff to update the Commission on these service quality issues and then present options to the Commission to solve ongoing service quality problems at a Special Public meeting on August 30, 2022.²¹ At the February public meeting, when asked by Commissioner Thompson what Lumen was doing to ensure customers have reliable landline service, Gose stated that Lumen will replace copper wires with broadband.²²

At the August 2022 Special Public Meeting, Staff presented a report describing the “historical and ongoing service quality” and safety issues and violations posed by Lumen's facilities, finding “current service quality issues experienced by customers present routine danger with being able to call for emergency services, as many of these customers rely solely on their landline service to contact such services.”²³ Public comments have been filed and were given at

¹⁸ *Id.* at 14-17.

¹⁹ UM 1908 – Staff/100, Bartholomew/7-8.

²⁰ UM 2206 – Staff Report for the February 22, 2022 Public Meeting at 3.

²¹ UM 1908 – Order No. 22-340, Appendix A at 4 (2022).

²² UM 1908 – Staff/100, Bartholomew/15.

²³ *Id.* at 13.

the meeting, in support of the Commission's report findings.²⁴ Staff still had concerns about service quality to ongoing customer complaints, failure of past performance plans to rectify ongoing issues with system age and quality, too-frequent outages, and Lumen not addressing problems in a timely manner.²⁵ Staff determined Lumen was not taking appropriate steps to ensure near-term compliance with service quality standards, including choosing not to follow the six-step cable plant restoration process suggested by Staff, stating the work performed was sufficient; relying on broadband as a solution even though it may not be available until late Q2 or early Q3 in 2023; and not providing a plan to address near-term service quality issues.²⁶ Staff also noted that Lumen also has an ongoing history of non-conformance with OARs related to pole safety and maintenance.²⁷ Staff again found that service quality in the Jacksonville and surrounding areas threatened public safety and that residents feel unsafe from unreliable service, some do not have access to alternative services, and without phone service, the Jacksonville residents are cut off from emergency services.²⁸ Accordingly, Staff recommended Commission action as necessary to ensure public safety, secure reliable phone service for customers, and guarantee that issues are addressed in a timely manner.²⁹

At the August meeting, Lumen representative, Peter Gose stated that in 2021, Lumen replaced some old paper insulated cable with more modern weather resistant cable but it was unclear about whether some or all of the old paper insulated cable was replaced.³⁰ Gose also

²⁴ UM 1908 – Staff/100, Bartholomew/12-13.

²⁵ UM 1908 – Staff/100, Bartholomew/18.

²⁶ *Id.*

²⁷ UM 1908 – Order No. 22-340, Appendix A at 6-7.

²⁸ *Id.*; Staff/100, Bartholomew/6.

²⁹ UM 1908 – Staff/100, Bartholomew/6-7, 18.

³⁰ UM 1908 – Staff/100, Bartholomew/16.

stated that Lumen’s Rural Digital Opportunity Fund (RDOF) funding had been approved and they have requested to have broadband service ready by late Q2/early Q3 of 2023.³¹

On September 2, 2022, Priscilla Weaver contacted Staff and described how they had no phone service while currently in extreme wildfire danger from a wildfire nearby, putting customers in danger without the ability to call 911. On September 3, 2022, Ms. Weaver described customers in Applegate that had lost service on August 30 and were told that the repair would not take place until September 7.³²

At a regular public meeting on September 20, 2022, Staff reported that service quality and safety issues justify opening a Commission investigation into whether Lumen’s Price Plan is in the public interest per ORS 759.255. They recommended the Commission modify the Price Plan to extend the term nine months to allow for the investigation and recommended steps the Commission could take to direct Lumen to address service issues in the near term, including directing Lumen to set up 24/7 customer service line.³³

On September 23, 2022, the Commission issued Order No. 22-340 adopting Staff’s recommendations with certain amendments.³⁴ Lumen filed a timely request for hearing stating “the record in this docket contains insufficient evidence to support the findings in the Order” and the Commission acted outside its authority. The Commission issued a Ruling consolidating docket UM 2206 into UM 1908, pursuant to its authority under OAR 860-001-0600.

On October 11, 2022, the Commission gave notice in the docket that it was considering making a modification of the second sentence of the second paragraph in Order No. 22-340. The

³¹ UM 1908 – Staff/100, Bartholomew/17.

³² UM 1908 – Order No. 22-340, Appendix A at 5-6,

³³ *Id.* at 5, 9.

³⁴ UM 1908 – Order No. 22-340.

Commission invited parties to comment on the proposed language.³⁵ The Commission issued Order No. 22-422 (“Modified Order”) which modified Order No. 22-340, modifying the second sentence of the second paragraph to:

Lumen must address all tickets and make repairs in a manner that results in a consistent and functional dial tone and ability to reliably make and receive calls, or provide the customer with a functionally equivalent substitute service, as defined by Lumen's current tariffs, at no additional customer cost, within 48 hours of creation of the ticket until service issues in the area are remedied. Where repairs are not feasible because of a customer-premise issue preventing such dial tone and the ability to receive and make calls, Lumen must provide documentation of such issue to the customer and the Commission's Consumer Services Division.³⁶

The Commission determined that that risks to public health and safety made it necessary to clarify the restoration of service expectations for Lumen, accordingly modification was appropriate, and the Modified Order will remain in effect pending its decision following the hearing in this matter.³⁷

B. Burden of Proof

In a utility dispute before the Commission, the burden of proof consists of two discrete components—the burden of persuasion and the burden of production.³⁸ In a utility proceeding, the burden of persuasion and the ultimate burden of producing sufficient evidence to support its claims is always with the utility.³⁹ Other parties to the proceeding have the burden of producing evidence to support their argument in opposition to the utility’s position.⁴⁰ In this instance,

³⁵ UM 1908 – Ruling and Memorandum, *Schedule for Consideration of Modifications to Order No. 22-340* (Oct. 11, 2022).

³⁶ UM 1908 – Order No. 22-422 at 9 (Oct. 28, 2022).

³⁷ *Id.* at 8.

³⁸ *In re Portland General Electric Company Application to Amortize the Boardman Deferral*, OPUC Docket No. UE 196, Order No. 09-046 at 7 (Feb. 5, 2009).

³⁹ *Id.*

⁴⁰ *Id.* at 7-8.

Lumen bears both the burden of persuasion and the ultimate burden of producing sufficient evidence.

C. Summary of Issues

In CUB’s view, Prehearing Briefs are an opportunity for parties to frame the unsettled issues that will be addressed at the evidentiary hearing, in post-hearing briefs, and at oral argument. CUB reserves the right to respond to issues raised by parties in Prehearing Briefs or at the hearing.

Lumen is challenging the lawfulness of the Order, arguing the Commission does not have the authority to direct it to take certain action steps, specifically:

1. Requiring Lumen to deploy a toll-free, 24/7 dedicated customer support line no later than Wednesday, September 28, 2022, to support customers in Jacksonville, Applegate, and surrounding areas in southern Oregon.
2. Allowing callers to that line to report service issues for multiple addresses other than their own.
3. Requiring Lumen to address all tickets and make repairs “to the satisfaction of customers” within 48 hours of creation of the ticket.
4. Announcing the intention to level penalties for violations of the Order for each instance in amounts not to exceed \$50,000 per day such that, for example, each day a ticket is not resolved in the 48-hour period will be a violation, for each customer and each day.⁴¹

CUB disagrees with Lumen’s argument and believes the Commission acted well within its authority to issue the Order and its directives.

⁴¹ UM 1908 – Lumen’s Issue List (October 7, 2022); *see also* UM 1908 – *Lumen’s Request for Hearing Pursuant to ORS 756.515(5)*.

II. ARGUMENT

A. The Commission's Order is lawful pursuant to ORS 756.515.

The Commission has broad authority to order an investigation under ORS 756.515, and it properly applied that authority in this instance. Oregon law provides that the Commission may open up an investigation of a utility, on its own and with or without notice, if, among other criteria, it believes that service is unsafe or inadequate or that an investigation of any matter relating to a telecommunications utility should be made.⁴² As a result of this investigation, the Commission may “make such findings and orders as the commission deems justified or required by the results of such investigation,” without notice or hearing.⁴³ Oregon law also permits the Commission to level penalties for a violation of a Commission order, pursuant to ORS 759.990.⁴⁴ These rules are not limited to orders stemming from violations of any statutes, which necessarily includes the statutes governing Price Plan regulation. Because the Order is valid, the Commission's authority to issue the order and levy penalties is clear. Here, since the history of Lumen's service in the Jacksonville area paints a clear picture of repeated unsafe and inadequate service, the Commission acted well within its authority in ordering the investigation in question.

In December 2021, the Commission adopted Staff's recommendation that the Commission move to open an investigation into the provision of telephone service in the Jacksonville area due to historical and ongoing service quality issues.⁴⁵ After nine months of investigating Lumen's services in the Jacksonville area in UM 2206, Staff determined that Lumen has operational issues that significantly affect service quality and safety. Staff found that

⁴² ORS 756.515(1).

⁴³ ORS 756.515(4).

⁴⁴ ORS 759.990(6)(c).

⁴⁵ UM 2206 - Updated Staff Report for the December 14, 2021 Public Meeting at 3-4 (Dec. 9, 2021).

Lumen's Price Plan should be investigated to determine whether it is in the public interest as currently structured, or if it should be modified or terminated.⁴⁶ Staff also found that:

Current service quality issues experienced by customers present routine danger with being able to call for emergency services, as many of these customers rely solely on their land line service to contact such services. As demonstrated by customer comments, wildfires, and heavy smoke present even greater danger if land line service is not working.⁴⁷

Accordingly, Staff recommended that the Commission identify "near-term solutions to address the service quality issues that present immediate danger to customers in Jacksonville," and recommended specific and immediate action steps for Lumen.⁴⁸ The Commission agreed with Staff's safety concerns and adopted Staff's recommendations with amendments that gave more detailed directives to Lumen.⁴⁹

Staff's investigation and the litany of public comments definitively show Lumen's telephone services has been unreliable, particularly in the Jacksonville area.⁵⁰ The record documents the opportunities Lumen has had to remedy eight years of service quality issues. Lumen has been assessed 163 violations, including 53 rule violations and 10 customer service violations, in 2022 alone.⁵¹ In addition to outages and unreliable connections, customers also noted Lumen's history of not following up on repair tickets, closing tickets without contact from the Company, and closing tickets without a problem identified, despite the requirements of the minimum service quality standards.⁵² Because the Jacksonville area is a rural community, many customers do not have cellular service and landlines are critical for their safety, creating the

⁴⁶ UM 1908 – Staff Report for the September 20, 2022 Public Meeting at 5-8 (Sept. 14, 2022).

⁴⁷ *Id.* at 5.

⁴⁸ *Id.* at 8.

⁴⁹ UM 1908 – Order No. 22-340.

⁵⁰ UM 1908 – Staff/100, Bartholomew/6.

⁵¹ UM 1908 – Staff/200, Nottingham/15.

⁵² UM 1908 – Staff/200, Nottingham/14; OAR 860-023-0055(5)(d).

potential for dangerous circumstances if an outage occurs during a health emergency or fire threat, particularly given that the region is in a high fire risk zone.⁵³

Lumen's history of service quality issues and inadequate responses to these chronic issues, demonstrate what appears to be a pattern of delay tactics where Lumen partially resolves some service issues and buys itself more time. Lumen has on several occasions referenced the fact that the service equipment in the Jacksonville region is very old and at the end-of-life stage, but it has "a solution down the road."⁵⁴ Lumen appears to seek to stretch out compliance until it expects to bring broadband to the area, expected by the middle of next year.⁵⁵

The record shows the need for an investigation into whether Lumen's Price Plan is in the public interest, and the service quality issues present immediate safety risks to customers, necessitating immediate action. The risk to public safety from unreliable service is too great and customers should not have to wait to receive safe and adequate service. Continued delay may result in loss of life for some of Lumen's customers should an emergency arise. The Commission has statutory authorization to levy penalties against a utility.⁵⁶ Without the threat of financial penalty, history indicates Lumen will likely continue the pattern of partially addressing service quality issues and assert that the remaining problems will be addressed "down the road." Lumen seeks to continue to do the minimum to comply while risking its customers' welfare. Given Lumen's ongoing service quality violations, its failure to satisfactorily resolve those issues in a timely manner (not to mention its refusal to heed Staff's recommended steps), and the serious

⁵³ UM 1908 – Staff/100, Bartholomew/6-7; Staff/200, Nottingham/15.

⁵⁴ UM 1908 – Lumen/100, Gose/7-8; Staff/100, Bartholomew/15; UM 2206 – Lumen's Comments at 1 (Dec. 10, 2021) ("Lumen is working diligently to determine exactly which locations in Little Applegate would be covered by the RDOF award, and how quickly funding can be deployed to replace the network in the area."); *see also* September 20, 2022 Public Meeting, Lumen's P. Gose, starting at minute 35.

⁵⁵ UM 1908 – Lumen/100, Gose/7-8.

⁵⁶ ORS 756.990.

risk to the safety of its customers from outages, the Order was justified to protect the safety of those customers, pursuant to ORS 756.515(4).

B. The Commission's Order is lawful pursuant to its broad regulatory authority and duty to protect customers.

Lumen argues that the Order is unlawful given that the Commission did not follow the procedures outlined in its existing Price Plan and Price Plan law and rules.⁵⁷ As an initial matter, the Order may be valid even if it was not explicitly authorized under the Price Plan rules given the Commission's broad authority to regulate in the public interest and open investigations under warranted circumstances. In addition to its authority under ORS 759.515, the Commission acted permissibly under its broad regulatory authority when it issued the Order.

A telecommunications utility is obligated to provide safe and adequate services.⁵⁸ The Commission's general powers and duties include the obligation to obtain for the customer of telecommunications utility "adequate service at fair and reasonable rates."⁵⁹ To this end, "[t]he commission is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction."⁶⁰

In *Pacific Northwest Bell Telephone Co. v. Katz*, Pacific Northwest Bell sought to vacate a Commission order requiring it to refund revenues to customers.⁶¹ The Oregon Court of Appeals found that although the refunds were not authorized by the statute requiring refunds under

⁵⁷ UM 1908 – Lumen Request for Hearing at 2-3.

⁵⁸ ORS 759.035, 759.506(1); OAR 860-023-0005.

⁵⁹ ORS 756.040(1).

⁶⁰ ORS 756.040(2).

⁶¹ *Pac. Nw. Bell Tel. Co. v. Katz*, 116 Or. App. 302, 841 P.2d 652 (1992).

particular circumstances, that law did not limit the Commission's authority to order refunds in other circumstances:

To hold that PUC does not have the power to order a refund of amounts over collected under temporary rates that failed to comply with an ordered revenue reduction would be inconsistent with its regulatory role and statutory duties. Such a holding would deprive PUC of much of its power to protect customers from abusive delay tactics, or, as in this case, unexpectedly long delays in implementing an ordered revenue reduction."⁶²

The Court also found that to hold that the Commission *may* order refunds under other circumstances does not render superfluous those statutes which *require* refunds under those *particular* circumstances.⁶³ Further, while statutes may limit the Commission's discretion in ordering a refund under those circumstances, that does not necessarily mean that the Commission may not order refunds in other circumstances, and that the entire statutory scheme must be considered.⁶⁴

The Price Plan statutes and their implementing rules lay out a required corrective process for a telephone utility that has been investigated for not meeting the minimum service quality standards. The Commission only just opened an investigation into whether Lumen's Price Plan is in the public interest in the Order. To follow the Price Plan law to direct Lumen to act in this instance would be premature. And like *Pacific*, the Price Plan law does not limit the Commission's authority to issue corrective action in other circumstances.

Like in *Pacific*, just because a Price Plan investigation requires particular action by the Commission, this does not mean that the Commission may not order a remedy in other circumstances; the entire statutory scheme must be considered. Since 2014, Lumen has repeatedly failed to meet service quality standards. Despite generous amounts of time and Staff

⁶² *Id.* at 116 Or. App. 302 at 310, 841 P.2d at 656-657.

⁶³ *Id.* at 116 Or. App. 302 at 310-311, 841 P.2d at 657.

⁶⁴ *Id.*

suggestions to remedy violations, Lumen failed to implement corrective action ordered and agreed to, including not following through with compliance with a previous performance plan.⁶⁵ The Company asserts that most of the service outages are due to aging equipment: “older vintage copper cables with internal paper insulation,” back-up power batteries “had approached the end of their useful life”, and remote terminals being over 40 years old.⁶⁶ The Commission has a duty to protect customers and ensure a utility is providing adequate service and has statutory authority to do all things necessary and convenient to make it so.

Given the long history of service quality violations and delayed compliance, as well as the dangerous threats to public safety, to hold that the Commission could not order immediate action by Lumen, with the threat of penalties, would be inconsistent with its regulatory role and statutory duties. The Commission has a duty to protect Lumen’s customers from ongoing public safety risks. Lumen has had years to address ongoing service quality issues and yet they are increasing in number. Ordering Lumen to take immediate and specific action steps to quickly remedy some of the customer safety risks or suffer financial penalties, was an exercise of Commission powers to do things necessary and convenient to move Lumen to provide safe and adequate service. Like the Court held in *Pacific*, the Commission has the authority to protect customers from abusive delay tactics. Given that Lumen’s service quality issues have been documented since at least 2014 and remain unresolved, the Commission has the authority to initiate an investigation to ensure customers no longer be subject to undue delay.

⁶⁵ Lumen did not file the January 2019 compliance report in UM 1836.

⁶⁶ UM 1908 – Lumen/100, Gose/7-8.

III. CONCLUSION

The Commission acted within its authority to issue the Order. CUB respectfully requests that the Commission find the Order should remain in effect. CUB reserves the right to rebut any arguments raised by other parties in briefs or at the hearing.

Dated this 13th day of December, 2022.

Respectfully submitted,

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