

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1908, UM 2206

IN THE MATTER OF
LUMEN TECHNOLOGIES

INTERVENOR PRISCILLA WEAVER'S POST-
HEARING BRIEF

Intervenor and Lumen customer Priscilla Weaver submits her post-hearing brief to address the portion of this consolidated docket presently before the Court: whether to uphold, modify, or rescind Order No. 22-340 as modified by Order No. 22-422, addressing service issues raised in Docket No. 2206 ("The Orders"). Pursuant to the Court's instructions, I do not address the Commission's statutory and regulatory authority to issue The Orders, leaving those legal arguments to the Commission and to CUB.¹

The complaint my neighbors and I filed with the Commission in November 2021 that prompted the Commission to open Docket No. 2206 sought straightforward and limited relief: (1) backup batteries for our land line phones to immediately restore functionality during power outages,² and (2) an effective mechanism for reporting outages to Lumen such that our phone service is restored quickly. My rural area has sought this relief since 2014.

¹ Nor do I address Lumen's references to the hypothetical possibility that Lumen may at some undetermined time in the future install fiber optic cable in unknown portions of the area covered by The Orders. The relevance, if any, of these statements is for another forum and another day.

² In response to our complaint, Lumen installed temporary batteries in January 2022 and batteries represented as permanent in May 2022. We do not know whether Lumen will replace them when they wear out without our having to file another complaint, but we do know that the threat of Commission action resulted in Lumen to rectifying this most fundamental prerequisite to reliable phone service.

In addressing our requests by opening Docket No. UM 2206, the Commission necessarily included investigation of the safety and reliability of the land line service Lumen is contractually obligated to provide to customers in our area.³

The Orders Are Warranted and Should Remain in Place

Assuming the Commission had the legal and regulatory authority to issue The Orders, and looking to the undisputed factual record in this case, there is a compelling, two-fold factual justification to uphold The Orders: (1) based on Lumen's partial compliance to date,⁴ and the record showing that (2) nothing else the Commission did prior to The Orders was sufficient to bring Lumen into ongoing compliance with their service obligations, The Orders are needed and can remain effective.

Lumen's own actions since The Orders resumed effect on October 28, 2022, with the lifting of the automatic stay, provide unequivocal factual justification for affirming The Orders and keeping them in place. Lumen's Mr. Gose testified on cross-examination on December 21, 2022, that there have been "no problems for four weeks" since Lumen replaced problematic sections, moved replacement "cards" from a distant warehouse to Jacksonville, addressed

³ A preliminary note about geographical terminology, which can be confusing: The area covered by our original complaint and in The Orders is described in this proceeding colloquially as "Little Applegate" or "Sterling Creek" or "Yale Creek" for the roads in our area. Lumen refers to this same area technically as "RT 2600 and RT 2900," the remote terminals in Lumen's system that provide our land lines. In initiating the dedicated phone line required by The Orders, Lumen chose for its own business reasons to include not only our rural area, but also all other customers within the 97530 zip code, which includes the city of Jacksonville and its environs, about 15 miles from us. To make matters worse in terms of geographical confusion, the other part of this consolidated docket, UM 1908, not currently before the Court and not covered by The Orders, concerns Lumen's price plan and statewide service issues.

⁴ The comments/complaints received by the Commission since The Orders were entered report instances of the "dedicated" line not being set up or operated as required by The Orders' protocols. Assuming Lumen comes into compliance by ensuring its operators take the steps required in initiate priority repair service, to correctly initiate and then close repair tickets, eliminate no-show repair personnel etc., and the Commission uses the sanctions in The Orders to force Lumen into compliance if necessary, The Orders will continue to work.

problems in T-1s, and re-loaded software. While these steps show that Lumen has been busy since The Orders took effect, it remains to be seen whether their work fixed the problems and will result in reliably stable service going forward. Simply put, it is far too soon to tell. Compared to eight years of lousy service, four weeks without a new malfunction in no way justifies a premature lifting of The Orders.

More importantly, as with the batteries installed under threat of Commission action, these new basic maintenance steps only took place when The Orders required Lumen to finally address recurring service issues or have meaningful fines imposed. There is nothing in the record to suggest Lumen will continue to maintain their land lines if the threat of economic sanctions is removed. Indeed, history suggests directly to the contrary, that Lumen will revert to its “normal” business strategy of ignoring their obligations and hoping the Commission will not hold them accountable. As summarized in Order No. 22-422, this is what happened in an earlier docket opened in 2016-17. In that docket, the Commission entered a modest corrective action plan (Order No. 17-175), and Lumen came into compliance for just long enough to persuade the Commission that the plan worked. Lumen then returned to its system of making outage reporting so unwieldy and ineffective as to ensure Lumen would not learn about, and thus would not have to spend money to correct, malfunctions, for as long as possible. See-no-problem, hear-no-problem, address-no-problem.

Why the Dedicated Reporting Line is So Crucial

As matters stood before The Orders became effective, when our phones went dead, we customers who tried to use Lumen’s general reporting system were told that we could not report for other customers who also were without service, that we could not report a

widespread outage but only our own line, that the call center could not or would not report our outage as needing priority response because of our isolation, and so on and so forth.

None of this would be anything other than appallingly bad customer relations were it not for the fact that multiple days would pass before anyone from Lumen showed up just to figure out what's wrong this time, never mind making a durable repair. All that time our area would remain at risk because most of us cannot reach emergency help except by using our land lines.⁵ By contrast, with the required dedicated line and associated reporting protocols functioning as required, the knowledgeable operator will take the information and repairs will happen promptly.

The Orders Are Supported by the Facts

Lumen presented no evidence to contradict the voluminous record showing that (1) the outages many of us reported did in fact happen, (2) the malfunctions lasted for as long as we reported they did, (3) the outages were caused by Lumen's system, including lack of battery backup, and (4) their general reporting system does not work in our vulnerable area to assure prompt restoration of safe and reliable service.

The Orders can act similarly to a performance plan, but with teeth: enable customers to make effective and prompt outage reports and promptly repair malfunctions. If Lumen performs, it will never pay the associated fines, as long as The Orders remain in place.

⁵ It is undisputed that few of us can report outages without traveling 15-20 minutes to an area with cell service robust enough to make the call. Despite knowing this for years, Lumen has persisted in requiring us to use a general outage reporting line they know is so ineffective and frustrating – including interminable wait times – that customers simply give up.

The record confirms that The Orders are both warranted and needed. After years of foot-dragging, Lumen opened a dedicated line in less than a week, for one reason and one reason only: the threat of monetary sanctions. As one of the largest telecommunications conglomerates in the country, Lumen has it within its power and means to take the additional steps necessary to bring the dedicated line into compliance with The Orders and keep it compliant, without having to pay any fines.

Equally telling, we know Lumen has the “technical knowhow” to provide reliable land line service to our area even though it “takes more effort,” because Lumen’s witness, Mr. Gose, told us so in response to Commissioner Thompson’s questions at the hearing.

In fact, “more effort” is precisely the point. Reliable land line service is what we contract for when we pay our Lumen bill each month. In return, we are entitled to the effort necessary from Lumen to keep our land lines operating reliably. Unfortunately, history tells us we will not receive that continuing stable phone service without The Orders. They should be affirmed.

Respectfully submitted,



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