

# Oregon Citizens' Utility Board

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*November 15, 2023*

## ***Via Electronic Filing***

Public Utility Commission of Oregon  
201 High St SE, Suite 100  
Salem, Oregon 97301-3398

### **Re: Docket No. UM 1908 –Errata Redacted Opposition Testimony on Behalf of Oregon Citizens' Utility Board**

The Oregon Citizens' Utility Board files herewith a correction to its originally submitted UM 1908 Testimony in Opposition to Stipulation on October 24, 2023. The now-included exhibits CUB/102-105 were inadvertently omitted from the testimony, as was the citation for footnote 36. Further, CUB has included CUB/105 as we only recently discovered that the testimony provided under Section Q on CUB/100/Garrett 5-7. CUB requests that this be amended to correct these omissions and apologizes for any inconvenience. The Confidential version of this Errata will follow.

Please do not hesitate to contact me via email if you have any questions or need other materials. CUB recognizes that this is a late filing and is extremely apologetic. CUB's key staff that assists with making these documents has been out of the office so the process took longer than we expected.

Please contact me if you have any questions with this filing.

Sincerely,

*/s/Jennifer Hill-Hart*

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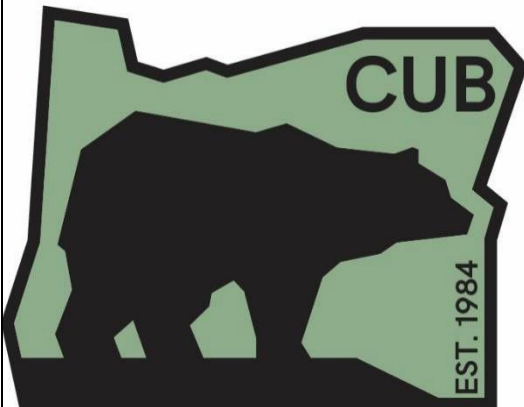
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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 1908, UM 2206**

In the Matters 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). )  
)  
Price Plan Investigation. )

OREGON CITIZENS' UTILITY BOARD  
ERRATA TESTIMONY IN OPPOSITION TO  
STIPULATION

November 15, 2023



**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1908, UM 2206**

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	)	
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	)	ERRATA TESTIMONY IN
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ORS 756.515 to Suspend and Investigate	)	
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	)	
<u>Price Plan Investigation.</u>	)	

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**I. INTRODUCTION**

**Q. Please state your name, occupation, and business address.**

**A.** My name is John Garrett. I am a Utility Analyst of the Oregon Citizens' Utility Board (CUB). CUB's business address is 610 SW Broadway, Ste. 400, Portland, Oregon 97205.

**Q. Please describe your educational background and work experience.**

**A.** My witness qualification statement is found in exhibit CUB/101.

**Q. What is the purpose of your testimony?**

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

1 **A.** My testimony details CUB’s opposition to the Stipulation entered into by Lumen  
2 Technologies (Lumen or the Company) and Staff of the Public Utility Commission of Oregon  
3 (Staff) (together, the Stipulating Parties) and filed with the Public Utility Commission of  
4 Oregon (Commission) on October 10, 2023. CUB’s opposition centers on accountability. As  
5 much as we appreciate the level of detail and effort that went into crafting this Stipulation,  
6 CUB does not believe its terms and conditions are sufficient to result in a Price Plan that is  
7 in the public interest and objects to parts of the Stipulation. Specifically:

- 8 1) Suspension of Order No. 22-340, as modified by Order No. 22-422 and as  
9 affirmed by Order No. 23-109 (“the Jacksonville Orders”);
- 10 2) Termination of the Jacksonville Orders and cessation of the investigation  
11 Regarding the Provision of Service in Jacksonville, Oregon, and Surrounding  
12 Areas upon completion of the RDOF build or December 31, 2024; and
- 13 3) Monthly reporting of an amalgamation of the TT/100 Performance and RCT  
14 metrics’ data for Protected Customers.

## 15 **II. DISCUSSION**

16 **Q. Please summarize your testimony**

17 **A.** While CUB believes the Stipulation as filed contains likable elements and reflects  
18 effort by the Stipulating Parties to incentivize the Company to improve service quality for  
19 its customers, the Stipulation does not adequately hold Lumen accountable in achieving  
20 results, i.e. reliable service, which at this point is long overdue. The Stipulation continues to  
21 expose customers to the risk of Lumen’s noncompliance with Commission rules. This  
22 testimony will explain why suspending Order No. 22-340, as modified by Order No. 22-422,  
23 and as affirmed by Order No. 23-109 (“the Jacksonville Orders”) and allowing the Company  
24 to increase its rates while remaining in noncompliance with service quality rules is  
25 fundamentally not in the public interest.

1           The Stipulation exchanges the known strength of the Jacksonville Orders for new  
2 customer protections in the Price Plan and promises from the Company to build some fiber  
3 infrastructure, which it is already required to do through a federal program. CUB argues  
4 the Price Plan does not provide the same degree of incentive as the Jacksonville Orders  
5 and believes the Commission should keep the Jacksonville Orders in place until the  
6 Commission has had a chance to review whether the Company's fiber project, and any  
7 other infrastructure upgrades needed, adequately address the service quality issues  
8 experienced by customers in the Jacksonville area. Given the Company's alarming history  
9 of noncompliance with service quality obligations over a ten-year span, CUB cannot  
10 support an agreement that reduces pressure on the Company based on loose planning and  
11 before any comprehensive infrastructure upgrades have begun.

12           I conclude my testimony with a discussion of CUB's proposed changes to the  
13 Stipulation, which if implemented, would address our greatest concerns and reverse our  
14 opposition to the Stipulation.

15   **Q.     What is the background of CenturyLink service quality issues?**

16   **A.**     Customers in the Jacksonville area have been experiencing unreliable telephone  
17 service since at least 2014. The history of the Commission review of Lumen's service  
18 quality issues statewide and in its Jacksonville service territory in particular, are well  
19 documented, particularly when it comes to meeting the Commission's trouble ticket and  
20 repair clearing time reporting standards. Likewise, the record shows the numerous  
21 opportunities the Company has had to address these chronic issues over the years,

1 through performance plans and Price Plan stipulations. CUB’s Opening Brief<sup>2</sup> and Staff’s  
2 Opening Testimony<sup>3</sup> in UM 2206 provides an overview of this nearly ten year timeline.

3 **Q. What is a Price Plan and what are the requirements that must be met in order for**  
4 **the Commission to approve a price plan?**

5 **A.** A telecommunications company like Lumen may petition for and receive a plan  
6 under which the commission regulates prices charged by the utility, without regard to the  
7 return on investment of the utility.<sup>4</sup> Prior to approval, the Commission must find that this  
8 price plan is in the public interest and the statute provides four factors that at a minimum  
9 the must Commission must consider in its decision. If approved, the Commission must  
10 establish objectives of the plan and conditions for review during its operation.

11 **Q. What is the public interest standard?**

12 **A.** The Commission has the authority to “approve a plan under which the commission  
13 regulates prices charged by the utility, without regard to the return on investment of the  
14 utility.”<sup>5</sup> ORS 759.255 provides limitations on the Commission’s authority:

15 (2) Prior to granting a petition to approve a plan under subsection (1) of this  
16 section, the commission must find that the plan is in the public interest. In making  
17 its determination the commission shall consider, among other matters, whether the  
18 plan:

19  
20 (a) Ensures prices for telecommunications services that are just and reasonable; (b)  
21 Ensures high quality of existing telecommunications services and makes new  
22 services available;

23 (c) Maintains the appropriate balance between the need for regulation and  
24 competition; and

25 (d) Simplifies regulation.  
26

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<sup>2</sup> UM 1908 – CUB’s Opening Brief at 3-9 (Dec. 13, 2022);

<sup>3</sup> UM 1908 – Staff/100, Bartholomew/1-19 (Nov. 23, 2022).

<sup>4</sup> ORS 759.255.

<sup>5</sup> ORS 759.255(1).

1           The language of ORS 759.255 makes clear that the Commission, in choosing to  
2 approve a Price Plan, has the duty to regulate prices in order to ensure that the plan is in  
3 the public interest. The legislative history supports this interpretation of the statute, clearly  
4 indicating that the legislative intent was to provide the Commission with another option  
5 other than rate of return regulation, but regulation, nonetheless.

6           Additionally, the Commission has acknowledged that it must “balance the tasks of  
7 promoting competition and keeping residential rates affordable.”<sup>6</sup> At best, if approved as  
8 currently written, CenturyLink’s proposed price plan would put the Commission in the  
9 position of being reactive, rather than proactive, in ensuring reliable service. Putting the  
10 Commission in such a position is bad policy, as it places customers in the position of being  
11 harmed before the Commission is able to act. Such a scheme would also place the burden  
12 on customers, intervenors, and Commission Staff to put forth a case demonstrating that  
13 the Price Plan as implemented is not in the public interest.

14 **Q.     The Stipulating Parties liken the customer protections in the Price Plan to the**  
15 **customer protections in the Jacksonville Orders. Does their comparison offer a complete**  
16 **picture of the tradeoffs between these two customer protections?**

17 **A.     No.** The Stipulating Parties provided a table comparing the protections, services,  
18 and rights of the Jacksonville Orders to the Stipulated Price Plan.<sup>7</sup> However, the table and  
19 associated discussion raises concerns for CUB as it omits key protections for Jacksonville

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<sup>6</sup> OPUC Order No. 01-810 at 62.

<sup>7</sup> UM 1908 – Stipulating Parties/100, Betzel and Gose/21.



1 customers that would be lost. We have added the missing elements to Table 1 below in  
2 their own rows or supplemented **in bold**.

3 **Table 1 – Jacksonville Orders and Stipulated Price Plan Compared**  
4

Requirement	Jacksonville Orders	Price Plan
Dedicated Support Line	Deploy a toll-free, 24/7 dedicated customer support line to support customers in Jacksonville, Applegate, and surrounding areas in southern Oregon <sup>8</sup>	Section 11(c): maintain a dedicated customer service contact number for Protected Customers to submit trouble reports
	<b>Allow customers to report service issues for multiple addresses and create multiple repair tickets<sup>9</sup></b>	Not included.
	<b>Provide notice to each Affected Customer informing them of the new Dedicated Line, how use it, and what Lumen's response to calls will be.<sup>10</sup></b>	Not included.
	<b>Within 14 days, Lumen shall provide the Commission a report confirming it took the steps laid out in No. 1. The report should include a copy of the notification to Affected Customers and a detailed description of the processes Lumen as put in place for assuring the immediate initiation of repair response when calls are received on the Dedicated Line.<sup>11</sup></b>	Not included.
Trouble Report Repair Timeline	address all tickets and make repairs or provide substitute service within 48 hours of creation of the ticket until the service issues in the area are remedied <sup>12</sup>	Section 11(a) and 4: continue to be subject to the Commission's service quality rules with pricing flexibility being tied to performance
Reporting Requirements	track and retain information on all tickets generated through the customer support line and submit reports every two weeks until the conclusion of the investigation, <b>including but not limited to: the address, name, and contact information for the customer for whom the ticket has been generated; a description of the service issue, logs of customer contact regarding the</b>	Section 11(b): provide a single report summarizing trouble report clearing data on a monthly basis for all Protected Customers. The data will be made available as a single Protected Customer category, as opposed to providing it at a wire center or RT level.

<sup>8</sup> UM 1908 – Order No. 22-340 at 1 (Sept. 23, 2022).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*, Appx. A at 8.

<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.* at 1.

Requirement	Jacksonville Orders	Price Plan
	service issue, actions taken to resolve the service issue, and information on the results. <sup>13</sup>	Detailed reporting requirements are not included.
	Dates and times for all of the foregoing information must be logged. <sup>14</sup>	Not included.
	A confidential version of the reported information, with no redaction, filed under a general protective order. Filings should summarize how tickets are routed and prioritized. <sup>15</sup>	Not included.
	Penalties for violations of this order for each instance in amounts not to exceed \$50,000. Each day a ticket is not resolved in the 48-hour period specified in this order will be a violation, for each customer and each day. <sup>16</sup>	Defers to service quality rule performance plan review process.

1

2

3 **Q.** The Stipulating Parties claim that the Stipulated Price Plan “should sufficiently  
4 protect customers covered by the Jacksonville Orders.” Does the Price Plan sufficiently  
5 protect these customers? Does it provide equal or better protection for customers than  
6 the Jacksonville Orders?

7 **A.** ~~The Stipulating Parties claim that “upon adoption by the Commission the Price Plan  
8 should sufficiently protect customers covered by the Jacksonville Orders.”<sup>17</sup> Yet, they have  
9 not shown any evidence that service quality has improved in the Jacksonville and  
10 surrounding areas to warrant suspending or terminating the Jacksonville Orders. The  
11 Stipulated Price Plan does not sufficiently protect these customers. Notably, and  
12 somewhat troubling, the Stipulation states the Company “intends” to move forward with~~

<sup>13</sup> ~~Id.~~

<sup>14</sup> ~~Id.~~

<sup>15</sup> ~~Id.~~

<sup>16</sup> ~~Id.~~ at 1–2.

<sup>17</sup> ~~UM 1908—Price Plan Hearing—Stipulating Parties’ Testimony in Support of Stipulation of Russ Beitzel and Peter Gose, Stipulating Parties/100 Beitzel and Gose/20 (Oct. 10, 2023).~~

1 the RDOF build, rather than offering a firm commitment to the project.<sup>18</sup> CUB highly  
2 recommends this language be changed to make this commitment a requirement, using  
3 “shall” or “will”, instead.

4 The Commission found that the Jacksonville Orders were necessary to protect the  
5 health and safety of the Jacksonville area\ customers. The only thing that has changed  
6 since those orders were put in place is that Lumen is, in theory, responding to all those  
7 customers trouble tickets within 48 hours. The Stipulating Parties’ proposed solution to  
8 these service quality issues is fiber and that fiber is not yet installed. Accordingly, the risks  
9 to customers remain and removing the protections of the Jacksonville Orders is not  
10 justified.

11 The Stipulating Parties offer that the Stipulation provides sufficient protections for  
12 Jacksonville customers. Yet, they recommend a return to the standard service quality  
13 review process under the Commission rules. A process was not working for Jacksonville  
14 customers, thereby necessitating the Jacksonville Orders.<sup>19</sup> Returning to OAR 860-023-  
15 0055 standards and ORS 759.450 will require Commission review of Lumen’s monthly  
16 trouble report and repair clearing time statements, direction to Lumen to submit a  
17 performance plan, and Commission review and approval or disapproval of the plan. If the  
18 performance plan is disapproved or the Company does not meet the goals of the plan

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<sup>18</sup> Docket No. UM 1908, *In the Matters of LUMEN TECHNOLOGIES, 1 OF OREGON UM 1908, UM 2206 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, Stipulating Parties’ Testimony in Support of Stipulation of Russ Beitzel and Peter Gose*, ¶ 14 (Oct. 10, 2023).

<sup>19</sup> UM 1908 Order No. 23-109 at 8-10.

1 ~~within six months, then the Commission may assess penalties against Lumen.<sup>20</sup> When~~  
2 ~~Lumen did not meet the service quality standards stipulated to in its 2014 Price Plan in~~  
3 ~~January 2017, the review process took one year and three months to come to a resolution.~~  
4 ~~That resolution was a stipulation among the parties which deferred to the service quality~~  
5 ~~rule process as resolution for the service quality issues. CUB has not been able to find a~~  
6 ~~public record of that March 2018 compliance plan being filed, making it seem as if Lumen~~  
7 ~~got out of filing that performance plan.~~

8 ~~When Staff reviewed the Jacksonville customer complaints submitted in November~~  
9 ~~2021, they found that the Company's performance plan adopted in 2017 did not provide a~~  
10 ~~durable solution to the service quality issues in the Jacksonville area given those issues still~~  
11 ~~remained.<sup>21</sup> Despite agreeing in the last two Price Plans to comply with the Commission's~~  
12 ~~service quality rules, Lumen was again found to be out of compliance. No penalties were~~  
13 ~~assessed. The Stipulation also removes the Jacksonville customers' ability to report~~  
14 ~~multiple customer issues and create multiple tickets. This protection is important to~~  
15 ~~customers in this area given not all of those customers have alternative voice systems or~~  
16 ~~may be out of cell phone range and therefore cannot contact the Company to report~~  
17 ~~outages.<sup>22</sup> By removing the requirement for detailed trouble ticket reporting and repair~~  
18 ~~clearing time reporting, the ability to observe the timeliness and quality of repair efforts,~~  
19 ~~particularly related to patterns of inadequate service and noncompliance is removed for~~  
20 ~~these customers. The Jacksonville Orders have motivated Lumen to move more quickly~~

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<sup>20</sup> ORS 759.450(5).

<sup>21</sup> UM 2206—Staff Report requesting to open investigation into the provision of service in Jacksonville, Oregon and surrounding areas, 6 (December 2, 2021).

<sup>22</sup> Order No. 22-422 at 3 (Oct. 28, 2022).

1 address trouble reports in its Jacksonville service territory and arguably accelerated  
2 Lumen's promises to build out fiber in this region. CUB argues the Jacksonville Orders are  
3 the reason the Company is moving toward compliance with the Commission's service  
4 quality rules in its Jacksonville area service territory.

5 Under the Jacksonville Orders, the Company is potentially liable for penalties up to  
6 \$50,000 per violation per day. If 5 customers in Jacksonville are not provided adequate  
7 service for 5 days for unwarranted reasons, the Company is vulnerable to \$1,250,000 in  
8 penalties. Conversely, under the Price Plan, the same incident for the same 5 customers  
9 would be diluted within the Company's aggregate service quality record for its 4,100  
10 Protected Customers collectively. The Stipulating Parties did not present any evidence that  
11 shows how this Protected Customer modeling would offer same or similar protections to  
12 the Jacksonville Orders. Ultimately CUB believes the efficacy of the Price Plan will not be  
13 understood until it has been in effect and there are outcomes to observe. Thus, CUB is not  
14 convinced that the protections in the Stipulation are equal or better than the powerful  
15 protections in the Jacksonville Orders and those orders must remain in place until the  
16 Commission has had a chance to review whether or not the fiber solution resolves the  
17 service quality issues for customers in its Jacksonville service territory.

18 **Q. Briefly describe the RDOF Program and Lumen's participation in it as it relates to**  
19 **this proceeding.**

20 **A.** The RDOF Program exists within the Federal Communications Commission's (FCC)  
21 High Cost Program and "will disburse up to \$20.4 billion over 10 years to bring fixed  
22 broadband and voice service to millions of unserved homes and small businesses in rural

1 America.” The RDOF Program uses a two-phase, competitive reverse auction (Auction 904)  
2 to award funds to bidders, including incumbent telephone companies, cable operators,  
3 electric cooperatives, satellite operators and fixed wireless providers, to build out and offer  
4 broadband service to customers. The [RDOF Phase I Auction](#) ended on Nov. 25, 2020 and  
5 awarded \$9.2 billion in support to 180 winning bidders.<sup>23</sup>

6 Regarding funding dispersal and the expectations of winning bidders (*emphasis*  
7 *added*):

8 While RDOF support will be disbursed over a period of 10 years, carriers must  
9 complete deployment by the end of the eighth year to *all* locations in areas eligible  
10 for support and must meet interim deployment milestones along the way.  
11

12 Figure 1 provided by Lumen in a data response provides further clarity regarding the  
13 “interim deployment milestones” and obligation of carriers to serve *100 percent* of  
14 locations:  
15

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<sup>23</sup> See CUB/102: Lumen’s Response to Staff DR 43(a), CTL RDOF Project Funding and Lumen RDOF Project Funding Supplement. See Lumen’s Response to Staff DR 43(a), CTL RDOF Project Funding and Lumen RDOF Project Funding Supplement. See the Universal Service Administration Company’s Rural Digital Opportunity Fund: <https://www.usac.org/high-cost/funds/rural-digital-opportunity-fund/>, attached as CUB/104.

1

**Figure 1: Deployment Requirements of the RDOF Program<sup>24</sup>**

## Deployment Requirements

RDOF participants must offer stand-alone voice service and broadband service at speeds consistent with their winning bids (which must be at least 25 Mbps downstream and 3 Mbps upstream (25/3 Mbps)) at rates reasonably comparable to those available in urban areas to all locations within an awarded area over eight years of the 10-year program. Initial interim deployment milestones are based on those adopted for the CAF Phase II Auction program. Carriers must complete:

- 40 percent of deployments by the end of year 3 (the end of the third full calendar year following funding authorization – which is the end of 2024 for carriers authorized in 2021, and at the end of 2025 for carriers authorized in 2022 or later)
- 60 percent of deployments by the end of year 4
- 80 percent of deployments by the end of year 5
- 100 percent of deployments by the end of year 6

The FCC will publish revised location counts by the end of year six, and winning bidders must serve 100 percent of revised location counts by the end of year eight. Carriers with new location counts that exceed the original location count by more than 35 percent will have the opportunity to seek additional support or relief from the FCC. Carriers with fewer locations must report this to the FCC no later than March 1 following the fifth year of deployment and must complete deployment by the end of year six. Carriers with new location counts that are less than 65 percent of the original location count will see support reduced on a pro-rata basis.

2

3 Lumen won RDOF BID ID: 16 OR-029-0030023 (“the Jacksonville RDOF”) in the RDOF Phase

4 I Auction. The FCC opened bidding for the Jacksonville RDOF at about \$1,000,000 and

5 Lumen won it with a bid of about \$650,000.<sup>25</sup> It should be noted that Lumen’s participation

6 in the RDOF program was voluntary, and it was incumbent upon Lumen to determine the

7 cost to provide fiber to all customers in the Jacksonville RDOF and set its bid for funds

8 accordingly. In Lumen’s RDOF Program application, Lumen represented that it has “access

9 to funds for all project costs that exceed the amount of Rural Digital Opportunity Fund

10 support to be received.”<sup>26</sup>

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<sup>24</sup> *Id.*

<sup>25</sup> See <https://www.fcc.gov/reports-research/maps/auction-904-final-8oct20-eligible-areas/>

<sup>26</sup> See CUB/102: Lumen’s Response to Staff DR 43(a), CTL RDOF Project Funding and Lumen RDOF Project Funding Supplement.

1    **A.     Will the RDOF build provide fiber to all customers covered under the Jacksonville**  
2    **Orders?**

3           No. The Stipulating Parties acknowledge this, although the number of customers  
4    that are covered by the Jacksonville Orders but will not receive access to fiber is not plainly  
5    stated. CUB expended considerable effort trying to understand exactly how many  
6    customers will or will not receive a fiber option through the RDOF build. CUB understands  
7    that some customers in the RDOF build area will not receive fiber and that “many”  
8    customers are outside the RDOF build area. Although the exact figure remains elusive, CUB  
9    offers the following figure, which compares the area covered by the Jacksonville Orders to  
10   the area of the RDOF build. Figure 2 shows that the RDOF build area<sup>27</sup> (the pink area of the  
11   image on the bottom right) only covers a fraction of the Company’s Jacksonville service  
12   territory (shown in grayscale in the image on the bottom left<sup>28</sup>).

13

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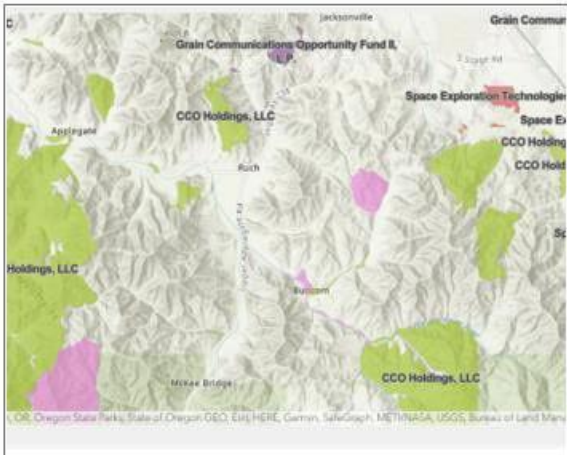
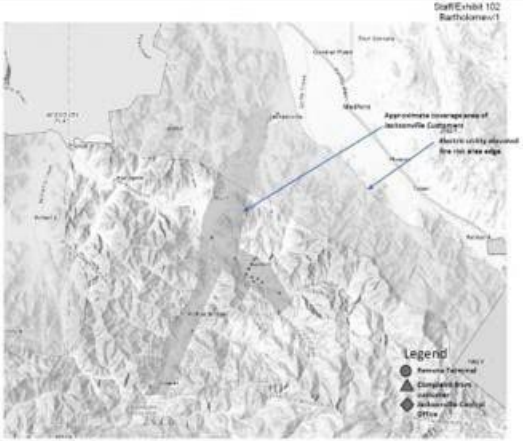
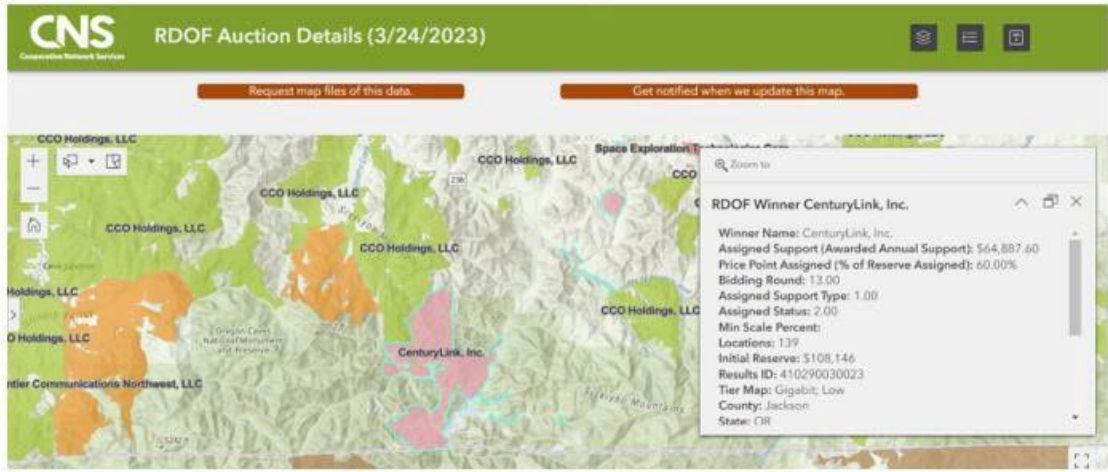
<sup>27</sup> See <https://www.fcc.gov/reports-research/maps/auction-904-final-8oct20-eligible-areas/>

<sup>28</sup> UM 1908 – [Staff/Exhibit 102, Bartholomew/1](#).



1

Figure 2: Jacksonville Area RDOF Build Map



2

3 CUB suspects that a significant percentage of the customers covered by the Jacksonville  
4 Orders will not receive a fiber option and call upon the Stipulating Parties to plainly  
5 indicate how many Lumen customers covered by the Jacksonville Orders will not receive a  
6 fiber option through the RDOF build. This is a highly significant figure, because these  
7 customers will lose the protection of the Jacksonville Orders but still rely on varying  
8 amounts archaic infrastructure. And as the Commission acknowledged in Order No. 23-  
9 109:

1 But, as CUB explains, it would be nonsensical to allow a telecommunications utility  
2 to ignore a small number of trouble reports indefinitely even if the utility were  
3 meeting the minimum service quality standards: "[t]o hold that the Commission does  
4 not have the power to protect customers from a utility's action or nonaction, whether  
5 the problems stem from 90%, 75%, or even 5% of the number of resolved service  
6 quality issues would be inconsistent with the Commission's role as a regulator.<sup>29</sup>  
7

8 **Q. For customers that don't receive a fiber option from the RDOF build, what is  
9 Lumen's plan and is it sufficient?**

10 **A.** Service reliability for the customers who do not receive fiber remains a matter of  
11 speculation and uncertainty. The Stipulating Parties identify benefits *some* customers will  
12 receive based on the replacement of some central infrastructure through the RDOF build.  
13 They discuss what will be replaced but do not offer a complete account of what  
14 infrastructure will not be replaced or how many customers will still rely on it. The  
15 Stipulating Parties fail to identify the full scope of the remaining archaic infrastructure and  
16 the risk it will still pose to service reliability for the customers who will still rely on it.

17 Regarding a comprehensive solution for all customers, we are left to rely on  
18 Lumen's high-level plans. The Stipulating Parties state:

19 For customers not within the RDOF build area, the Company plans to evaluate  
20 other technologies to improve service, such as a Adtran 1148VXP, Adtran TA5004,  
21 or TellLabs UMC1000.<sup>30</sup>  
22

23 CUB is concerned that "plans to evaluate" technologies like this, with no timeline, cost  
24 analysis or assurances, will not result in urgently needed service reliability in a timely  
25 manner. CUB's concern is based on Lumen's history of simply invoking the possibilities of  
26 new technologies as a solution to an immediate issue, which resulted in the current

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<sup>29</sup> Order No. 23-109 at 8.

<sup>30</sup> Stipulating Parties Testimony at Stipulating Parties/100 Beitzel and Gose/26.

1 predicament. If five or ten years ago it was understood that a fiber solution was still a long  
2 way off, and not a comprehensive cost-effective solution for the Jacksonville area, would  
3 stakeholders have tolerated Lumen's invocations that we must wait on fiber before  
4 implementing a proactive solution to the frequent service quality issues in Jacksonville?

5 Ultimately, CUB cannot rely on the Stipulating Parties' speculative assessment of  
6 how reliable Lumen's network will be for all customers after the RDOF build is complete.  
7 Customers should not be left without the full accountability of the Jacksonville Orders  
8 while Lumen is planning to evaluate the additional infrastructure upgrades required after  
9 the RDOF build. CUB argues that simply implementing the Price Plan and starting the RDOF  
10 build should not trigger suspension and/or termination of the Jacksonville Orders. No  
11 amount of planning should be sufficient; only *results* should suffice.

12 **Q. How does the Stipulation build upon Lumen's existing obligations under the RDOF**  
13 **Program, if in fact it does?**

14 **A.** The RDOF Program requires Lumen to offer fiber to *all* locations in the Jacksonville  
15 RDOF by the end of 2027 and complete 40% of deployments by the end of 2024.<sup>31</sup> CUB  
16 found evidence that program participants who default on their RDOF obligations can face  
17 steep penalties.<sup>32</sup>

18 First, it must be stated that the Stipulation does not require or incent Lumen to  
19 offer fiber to any customers beyond the RDOF build area, even though this means that  
20 many customers will still rely on archaic infrastructure. START CONFIDENTIAL [REDACTED]

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<sup>31</sup> <https://www.usac.org/high-cost/funds/rural-digital-opportunity-fund/>

<sup>32</sup> See <https://docs.fcc.gov/public/attachments/DOC-393039A1.pdf>

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] END

17 CONFIDENTIAL

18 Although the Stipulation does not attempt to up-negotiate the number of  
19 customers who will receive fiber, the Stipulation apparently attempts to accelerate  
20 Lumen’s Jacksonville RDOF build timeline. The Stipulating Parties state:

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<sup>33</sup> See CUB CONF Exhibit CUB/102, Lumen’s Confidential Response to CUB DR 3(f).  
<sup>34</sup> See <https://www.fcc.gov/reports-research/maps/auction-904-final-8oct20-eligible-areas/>

1           The suspension of the Jacksonville Orders would happen at the start of the  
2           construction of the RDOF build. The suspension would last until the sooner of when  
3           the build is complete or December 31, 2024. A specific end date was chosen to  
4           incentivize the Company to act quickly related to this build.<sup>35</sup>  
5           However, CUB argues that the Stipulation quite possibly has the opposite effect,  
6           and that the status quo provides greater incentive for Lumen to complete the RDOF build  
7           as soon as possible. Without the Stipulation, the Jacksonville Orders would continuously  
8           remain in effect, providing constant incentive for the Company to upgrade its archaic  
9           infrastructure, which is an imminent and potentially costly liability under the Jacksonville  
10          Orders. When viewed this way, the Stipulation offers Lumen two years of unwarranted  
11          *protection* from the Jacksonville Orders, and not added pressure to complete the RDOF  
12          build as soon as possible.

13           Furthermore, without the Stipulation, the Jacksonville Orders are not  
14          undermined by an agreement that the Orders will be terminated upon completion  
15          (according to a heretofore unclear standard) of the RDOF build. Rather, the Commission  
16          will retain the right to holistically determine if the Orders are still necessary *after* Lumen  
17          has completed the RDOF build *and* any other measures the Company must take to  
18          resolve the service quality issues in Jacksonville. The Stipulation deprives customers of a  
19          *results-based* Commission determination of whether the Jacksonville Orders are still  
20          needed, which they are currently entitled to, and replaces it with a significantly lower  
21          bar: Lumen completing its plans for the RDOF build.

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<sup>35</sup> Stipulating Parties Testimony at Stipulating Parties/100 Beitzel and Gose/25.

1 **Q. Does CUB have a proposal that would change its opposition to the Stipulation and**  
2 **if so, how does CUB's proposal address its concerns?**

3 **A.** Yes. CUB proposes the following changes to the stipulation:

- 4 1. The Jacksonville Orders will remain in effect until Lumen has notified the Commission  
5 that it has completed the RDOF build and taken any other steps necessary to make its  
6 service for Jacksonville customers reliable and compliant with Oregon standards, and
- 7 2. Upon Lumen's notification in UM 1908 and no sooner than six months after the RDOF  
8 build is completed, the Commission will hold a public hearing to assess whether the  
9 Jacksonville Orders are still necessary, and
- 10 3. CenturyLink will file its monthly service quality reports by wire center as required under  
11 OAR 860-023-055(5) & (6) in UM 1908 and identify those wire centers serving  
12 Protected Customers.

13

14 CUB argues these changes are needed for the following reasons.

- 15 1. Under the current Stipulation, the Company could start the RDOF build but make no  
16 meaningful progress for two years, in which time the Jacksonville Orders would be  
17 suspended. This would nullify the stronger incentive of the Jacksonville Orders, leaving  
18 only the uncertain efficacy of the Price Plan and the RDOF Program's interim  
19 requirements, which exist outside the Stipulation. Conversely, CUB's proposal retains  
20 the full force of the Jacksonville Orders until the Commission determines that they are  
21 no longer necessary.
- 22 2. The Stipulating Parties have not shown that the RDOF build will comprehensively  
23 resolve Lumen's service quality issues for *all* or even *most* customers in the Jacksonville  
24 area. CUB has established that not all customers will receive a fiber option and it  
25 remains poorly investigated and unknown what service quality issues will remain for  
26 customers who do not receive fiber. Rather than speculate whether Lumen's RDOF  
27 build and the Price Plan will sufficiently resolve the service quality issues in Jacksonville,  
28 CUB argues that this should be assessed after Lumen has completed the RDOF build

1 and any other upgrades needed to provide reliable and compliant service. This shifts  
2 responsibility for the outcome of Lumen's plans onto Lumen, rather than transferring it  
3 customers, as the Stipulation does. CUB argues Lumen must remain responsible for the  
4 *outcome* of its plan and provide reliable service *before* the Jacksonville Orders are  
5 suspended or terminated. CUB's proposal sets this requirement.

6  
7 It should be noted that CUB's proposal does not completely address our concerns and  
8 includes difficult concessions. First and foremost, our proposal accepts the Price Plan, even  
9 though we question the fairness in continuing to offer rate increases to a company that has  
10 failed to provide reliable service for over 10 years and has yet to begin implementing a  
11 comprehensive resolution. Allowing Lumen to receive rate increases while they remain in  
12 violation of the safety and service quality rules is a concession made on the backs of  
13 customers in order to try to incentivize compliance. There is a strong argument that  
14 allowing Lumen to receive rate increases while customers are not getting reliable service is  
15 not in the public interest. This concession is something CUB has struggled with and believes  
16 that to agree to this is a significant concession as part of a good faith effort to get Lumen to  
17 finally comply with the safety and service quality rules. We reluctantly accept this  
18 concession in the interest of establishing a long-term incentive for better service quality—  
19 i.e., tiered price increases tied to service quality performance metrics— although we are  
20 concerned that the strength of this new incentive is poorly understood, meaning it may be  
21 ineffective. Accordingly, we believe making the monthly report filing requirements public  
22 are central to ensuring the Company's accountability.

23 Further, guaranteeing Lumen the opportunity for a public hearing to assess the ongoing  
24 need of the Jacksonville Orders only six months after its RDOF build is complete is a

1 considerable concession on CUB's part. Lumen's current plan for the RDOF build will not  
2 provide fiber to all Jacksonville customers, meaning some customers will remain reliant on  
3 archaic infrastructure. If during the six-month period, the remaining archaic infrastructure  
4 is reliable, but shortly thereafter it falters, the Jacksonville Orders may already be  
5 terminated and the strongest incentive to Lumen to resolve the issues quickly will be gone.  
6 Jacksonville customers have endured unreliable service quality for years, putting their lives  
7 and livelihoods at risk, but Lumen may only have to wait six months after finally  
8 implementing its fiber plan to free itself of the Jacksonville Orders.

9 All told CUB seeks greater accountability from Lumen than the Stipulation provides and  
10 just incentives for Lumen to become a reliable service provider. CUB believes that while its  
11 proposal is not our preferred resolution, it is a significant improvement over the  
12 Stipulation. As a final note, CUB offers that the Commission may want to open an  
13 investigation into the adequacy of Lumen's Legacy Infrastructure statewide. Lumen has  
14 made similar promises to improve service quality in at least one other state and was  
15 determined to not follow its Stipulated commitment to comply with service quality rules.  
16 As a result, the Montana Public Service Commission has opened an investigation into the  
17 adequacy of the Company's Legacy Infrastructure.<sup>36</sup>

18 **Q. Does CUB believe the Stipulation sufficiently address ongoing service quality**  
19 **issues statewide?**

20 **A.** No. The Stipulation offers the Company price increases based upon service quality  
21 improvement metrics. CUB does not necessarily oppose concepts within the Price Plan.

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<sup>36</sup> ~~ite~~ See Montana Public Service Commission, Docket No. 2021.12.136, In re the Commission's Investigation into the Adequacy of Legacy Infrastructure Operated by Qwest Corporation d/b/a CenturyLink QC, Notice of Public Hearing (August 22, 2023) (accessible at [https://psc.mt.gov/\\_docs/Telecom/pdf/NoticeofPublicHearing\\_DOC-25671.pdf](https://psc.mt.gov/_docs/Telecom/pdf/NoticeofPublicHearing_DOC-25671.pdf)).



1 CUB sees this as a novel mechanism to improve CenturyLink's long-term accountability.  
2 However, the revenue incentive under the Price Plan of various service quality scenarios  
3 are not clear. The revenue impacts under unacceptable service quality scenarios could  
4 easily be too weak to instigate sufficient reaction from CenturyLink. Put differently, under  
5 this new mechanism compliance is left to the will of the Company only and offers no  
6 guarantees of action. Accordingly, it results in weaker accountability than the Jacksonville  
7 Orders currently provide and arguably statewide.

8 **Q. Given the analysis you have provide above, do you believe the Stipulation in the**  
9 **public interest?**

10 **A.** No. While we believe the Stipulation is a good start but given history of service  
11 quality issues in Lumen's service territories statewide and the reality of archaic copper line  
12 infrastructure, CUB does not believe the Stipulation goes far enough to be deemed in the  
13 public interest.

14 **Q. Does the Stipulation ensure the high quality of existing telecommunications**  
15 **services?**

16 **A.** No, for at least three reasons. First, the Stipulation removes the protections for  
17 customers covered by the Jacksonville Orders prior to the proposed service quality solution  
18 being in place. Second, by leaving it up to Lumen to determine whether to seek the  
19 incentives of the Stipulation, there is no guarantee they will act to improve services,  
20 leaving Lumen with all the power and customers all the risk. Third, the Stipulating Parties  
21 have not presented evidence that the RDOF build will remedy the service quality issues for  
22 all customers its service territory covering Jacksonville and surrounding areas.

1 **Q. Does the Stipulation ensure prices for telecommunications services that are just**  
2 **and reasonable?**

3 **A.** Not really. While these tiered increases should incentivize the Company to come  
4 into compliance with service quality rules, as addressed above, allowing price increases  
5 while the Company is out of compliance with the rules is a concession on the backs of  
6 Lumen customers who have been paying for reliable service which is not being delivered  
7 reliably. There is a strong argument that allowing Lumen to receive rate increases while  
8 customers are not getting reliable service is not in the public interest. CUB's preference  
9 would be that until the Company starts following the baseline, it should not be rewarded  
10 with price increases. However, given it is an attempt to incentivize compliance, we are  
11 willing to try it, but would like the Commission to direct the Company to file its monthly  
12 Trouble Ticket and Repair Clearing Time reports as required under OAR 860-023-055, in  
13 this docket for timely public review.

14 **Q. Does the Stipulation simplify regulation?**

15 **A.** No. As discussed above, suspending, and eventually terminating the Jacksonville  
16 Orders will require those customers or Intervenors to bring an action to the Commission to  
17 reinstate the orders or, after termination, open a new investigation. Whereas these  
18 processes could take from a few months to over a year to come to a resolution, keeping  
19 the Jacksonville Orders in place will provide a much quicker process as seen by the  
20 Commission's response to the Labor Day outages this year.

21 The Stipulation also dilutes the statewide wire center TT and RCT reporting into an  
22 average of statewide monthly reporting data and an average of the Protected Customer

1 report monthly data. Aggregating this reporting dilutes issues in smaller community service  
2 quality issues. Rather than submitting these averages' reports or requiring customers or  
3 Intervenors to request to review monthly reporting data, CUB's solution is to modify the  
4 Stipulation to state that the Company must file its monthly TT and RCT reports in this  
5 docket and identify which wire centers are serving Protected Customers. This, along with  
6 keeping the Orders in place, creates a more simplified process than the Stipulation  
7 provides.

8 **Q. Does CUB have any other objections to the Stipulation?**

9 **A.** No.

10 **Q. What resolution would result in a decision that would be in the public interest?**

11 **A.** As stated earlier in my testimony, CUB offers the following modifications to the  
12 Stipulation for the Commission's consideration in its order:

- 13 1. The Jacksonville Orders will remain in effect until Lumen has notified the  
14 Commission that it has completed the RDOF build and taken any other steps  
15 necessary to make its service for Jacksonville customers reliable and compliant with  
16 Oregon standards, and
- 17 2. Upon Lumen's notification in UM 1908 and no sooner than six months after the RDOF  
18 build is completed, the Commission will hold a public hearing to assess whether the  
19 Jacksonville Orders are still necessary, and
- 20 3. CenturyLink will file its monthly service quality reports by wire center as required under  
21 OAR 860-023-055(5) & (6) in UM 1908 and identify those wire centers serving  
22 Protected Customers.

23 CUB's proposal shifts the risk of the Stipulation failing to resolve the Company's  
24 service quality issues from customers to the Company. Put differently, if between the Price

1 Plan and the RDOF build, customers still aren't receiving adequate service, they are not left  
2 high and dry without the Jacksonville Orders. Instead, the Company will remain compelled  
3 to finish the job, and fulfil its service obligations, before the Jacksonville Orders are lifted.  
4 CUB argues that this level of customer protection is absolutely warranted given the  
5 unacceptable experience Jacksonville

6 **III. CONCLUSION**

7 **Q. Does this conclude your testimony?**

8 **A.** Yes.

9

### WITNESS QUALIFICATION STATEMENT

**NAME:** John Garrett

**EMPLOYER:** Oregon Citizens' Utility Board

**TITLE:** Utility Analyst

**ADDRESS:** 610 SW Broadway, Suite 400  
Portland, OR 97205

**EDUCATION:** Master of Public Policy  
Oregon State University, Corvallis, OR

BA, Molecular Biology and Geography  
Colgate University, Hamilton, NY

**EXPERIENCE:** Provided testimony on behalf of the Oregon Citizens' Utility Board (CUB) for docket UG 461 and comments for dockets LC 81, LC 83, UM 2056 and UM 2033. Worked as a Graduate Researcher for Oregon State University examining the socio-economic impacts of renewable energy development in Oregon. Worked as a Research Assistant for the Archbold Biological Station Agro-ecology Research Ranch examining the socio-economic impacts of conservation polices on Floridian agriculturalists.

**MEMBERSHIP:** National Association of State Utility Consumer Advocates



# Oregon

Tina Kotek, Governor

## Public Utility Commission

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March 21, 2023

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RE:	<u>Docket No.</u>	<u>OPUC Request Nos.</u>	<u>Response Due By</u>
	UM 1908-2206 Price Plan	DR 43	April 4, 2023

Please provide responses to the following request for data by the due date. Please note that all responses must be posted to the PUC Huddle account. Contact the undersigned before the response due date noted above if the request is unclear or if you need more time. In the event any of the responses to the requests below include spreadsheets, the spreadsheets should be in electronic form with cell formulae intact.

### Topic or Keyword:

43. Please provide a copy of the following:
  - a. All documents submitted to the FCC, including bids and implementation plans, in regard to the Rural Digital Opportunity Fund (RDOF) for the State of Oregon.

Response: See the following zip folder submitted in the non-confidential Huddle folder "Response - DR 43a - Lumen Documents to FCC.zip"

Response provided by: Peter Gose

- b. All communications, including notice of awards, from the FCC to Lumen or any of its subsidiaries for RDOF in the State of Oregon.

Response: See the following zip folder submitted in the non-confidential Huddle folder "Response - DR 43b - FCC Communication to Lumen.zip"

Response provided by: Peter Gose

- c. All shape files (if any) that were submitted to the FCC for RDOF in the State of Oregon or were produced in response to awarded areas.

Response: See the following zip folder submitted in the non-confidential Huddle folder "Response - DR 43c - Lumen OR RDOF Census Blocks.zip"

Response provided by: Peter Gose

### **CenturyLink RDOF Project Funding**

CenturyLink's annual RDOF support is \$26.2M. Construction will allow Tier 1 service availability to 77,300 customer addresses in 273 Census Block Groups. CenturyLink will construct 15 to 20% of its plan each year during the first six years of the program. This equates to eleven to twelve thousand addresses benefitting from the program each year. This will require funding a \$50M to \$70M annual construction program over the first six years of the program. This estimate covers planning, engineering, construction, and support systems alignment reflecting all facilities required to complete the project, including the costs of upgrading, replacing, or otherwise modifying existing facilities to expand coverage or meet performance requirements.

CenturyLink has access to funds for all project costs that exceed the amount of Rural Digital Opportunity Fund support to be received. CenturyLink will finance this construction from its annual construction program much as the CAF program construction was funded in the past. The RDOF program is approximately two per cent of CenturyLink's typical annual capital program (~\$3B).

We plan to complete RDOF deployment to 40 percent of the required number of locations as determined by the Connect America Cost Model by the end of the third year, to 60 percent by the end of the fourth year, to 80 percent by the end of the fifth year, and to 100% by the end of the sixth year. Within the interim milestones, some reprioritization of effort is likely over the course of implementation. As reflected in CenturyLink publicly available annual reports, it can cover the necessary debt service payments over the life of related loans, if any.

[https://s24.q4cdn.com/287068338/files/doc\\_financials/2019/CenturyLink-2019-Annual-Report-and-2020-Proxy-Statement.pdf](https://s24.q4cdn.com/287068338/files/doc_financials/2019/CenturyLink-2019-Annual-Report-and-2020-Proxy-Statement.pdf)



State	Total Assigned Support Over 10 Years	Number of Locations	Support per year	Total (six-year) Construction Cost	2022 Construction Cost	2023 Construction Cost	2024 Construction Cost	2025 Construction Cost	2026 Construction Cost	2027 Construction Cost
AL	\$ 18,597,092	5,965	\$ 1,859,709	\$29,162,000	\$4,374,000	\$4,374,000	\$4,374,000	\$4,374,000	\$5,833,000	\$5,833,000
AR	\$ 9,378,743	2,958	\$ 937,874	\$13,742,000	\$2,061,000	\$2,061,000	\$2,061,000	\$2,061,000	\$2,749,000	\$2,749,000
CO	\$ 7,482,178	1,509	\$ 748,218	\$7,940,000	\$1,191,000	\$1,191,000	\$1,191,000	\$1,191,000	\$1,588,000	\$1,588,000
FL	\$ 5,039,442	1,495	\$ 503,944	\$6,948,000	\$1,042,000	\$1,042,000	\$1,042,000	\$1,042,000	\$1,390,000	\$1,390,000
ID	\$ 11,650,567	2,576	\$ 1,165,057	\$13,728,000	\$2,059,000	\$2,059,000	\$2,059,000	\$2,059,000	\$2,746,000	\$2,746,000
LA	\$ 18,742,492	7,616	\$ 1,874,249	\$29,986,000	\$4,498,000	\$4,498,000	\$4,498,000	\$4,498,000	\$5,997,000	\$5,997,000
MI	\$ 9,905,380	2,556	\$ 990,538	\$10,868,000	\$1,630,000	\$1,630,000	\$1,630,000	\$1,630,000	\$2,174,000	\$2,174,000
MN	\$ 15,646,093	3,265	\$ 1,564,609	\$14,360,000	\$2,154,000	\$2,154,000	\$2,154,000	\$2,154,000	\$2,872,000	\$2,872,000
MO	\$ 275,208	38	\$ 27,521	\$332,000	\$332,000					
MT	\$ 28,379,921	9,658	\$ 2,837,992	\$30,542,000	\$4,581,000	\$4,581,000	\$4,581,000	\$4,581,000	\$6,109,000	\$6,109,000
NE	\$ 326,802	69	\$ 32,680	\$478,000			\$478,000			
NM	\$ 2,038,002	770	\$ 203,800	\$2,791,000			\$2,791,000			
NC	\$ 530,376	169	\$ 53,038	\$677,000		\$677,000				
OR	\$ 41,423,188	8,982	\$ 4,142,319	\$45,718,000	\$6,858,000	\$6,858,000	\$6,858,000	\$6,858,000	\$9,143,000	\$9,143,000
PA	\$ 21,483,885	5,614	\$ 2,148,389	\$30,002,000	\$4,500,000	\$4,500,000	\$4,500,000	\$4,500,000	\$6,001,000	\$6,001,000
SD	\$ 121,060	10	\$ 12,106	\$119,000	\$119,000					
VA	\$ 12,518,109	6,832	\$ 1,251,811	\$22,206,000	\$3,331,000	\$3,331,000	\$3,331,000	\$3,331,000	\$4,441,000	\$4,441,000
WA	\$ 45,838,634	14,875	\$ 4,583,863	\$62,714,000	\$9,407,000	\$9,407,000	\$9,407,000	\$9,407,000	\$12,543,000	\$12,543,000
WI	\$ 3,135,120	832	\$ 313,512	\$3,732,000	\$1,244,000	\$1,244,000	\$1,244,000			
WY	\$ 9,855,321	1,468	\$ 985,532	\$12,208,000	\$1,831,000	\$1,831,000	\$1,831,000	\$1,831,000	\$2,442,000	\$2,442,000
	<b>\$ 262,367,614</b>	<b>77,257</b>	<b>\$ 26,236,761</b>	<b>\$338,253,000</b>	<b>\$51,212,000</b>	<b>\$51,438,000</b>	<b>\$54,030,000</b>	<b>\$49,517,000</b>	<b>\$66,028,000</b>	<b>\$66,028,000</b>

**Lumen RDOF Project Funding**

Lumen's annual RDOF support is \$26.2M. Construction will allow Tier 1 service availability to 77,300 customer addresses in 273 Census Block Groups. Lumen is expected to construct 15% to 20% of its plan each year during the first six years of the program. This equates to approximately eleven to twelve thousand addresses benefitting from the program each year. This will require funding a \$50M to \$70M annual construction program over the first six years of the program. This estimate covers planning, engineering, construction, and support systems alignment reflecting all facilities required to complete the project, including the costs of upgrading, replacing, or otherwise modifying existing facilities to expand coverage or meet performance requirements.

Lumen has access to funds for all project costs that exceed the amount of Rural Digital Opportunity Fund support to be received. Lumen will finance this construction from its annual construction program much as the CAF program construction was funded in the past. The RDOF program is approximately two per cent of Lumen's typical annual capital program, less than one percent of Lumen's public guidance for 2021 EBITDA, and would represent less than three percent of expected free cash flow for 2021 for Lumen.

We plan to complete RDOF deployment to 40 percent of the required number of locations as determined by the Connect America Cost Model by the end of the third year, to 60 percent by the end of the fourth year, to 80 percent by the end of the fifth year, and to 100% by the end of the sixth year. Within the interim milestones, some reprioritization of effort is likely over the course of implementation. As reflected in Lumen's publicly available annual reports, it can cover the necessary debt service payments over the life of related loans, if any.

We do not anticipate debt financing associated with RDOF implementation. Our forecasted financials are:

2021 Metric <sup>(1)(2)</sup>	2020 Proforma <sup>(3)</sup>	2021 Outlook
Adjusted EBITDA (excluding Special Items)	\$8.664 billion	\$8.4 to \$8.6 billion
Free Cash Flow (excluding Special Items) <sup>(4)</sup>	\$2.979 billion	\$2.8 to \$3.0 billion

2021 Metric <sup>(1)(2)</sup>	2020 Actual	2021 Outlook
Net Cash Interest	\$1.627 billion	\$1.525 to \$1.575 billion
GAAP Interest Expense	\$1.668 billion	\$1.550 billion
Dividends <sup>(5)</sup>	\$1.1 billion	\$1.1 billion
Capital Expenditures	\$3.729 billion	\$3.5 to \$3.8 billion
Depreciation & Amortization	\$4.710 billion	\$4.2 to \$4.4 billion
Share-Based Compensation Expense	\$175 million	~\$200 million
Cash Income Taxes	\$70 million	\$100 million
Full Year Effective Income Tax Rate <sup>(6)</sup>	24%	~27%

The proxy:

<https://d18rn0p25nwr6d.cloudfront.net/CIK-0000018926/37db80ee-1aad-4db5-be8d-b0370bd99562.pdf>

State	Total Assigned Support Over 10 Years	Number of Locations	Support per year	Total (six-year) Construction Cost	2022 Construction Cost	2023 Construction Cost	2024 Construction Cost	2025 Construction Cost	2026 Construction Cost	2027 Construction Cost
AL	\$ 18,597,092	5,965	\$ 1,859,709	\$29,162,000	\$4,374,000	\$4,374,000	\$4,374,000	\$4,374,000	\$5,833,000	\$5,833,000
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FL	\$ 5,039,442	1,495	\$ 503,944	\$6,948,000	\$1,042,000	\$1,042,000	\$1,042,000	\$1,042,000	\$1,390,000	\$1,390,000
ID	\$ 11,650,567	2,576	\$ 1,165,057	\$13,728,000	\$2,059,000	\$2,059,000	\$2,059,000	\$2,059,000	\$2,746,000	\$2,746,000
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MI	\$ 9,905,380	2,556	\$ 990,538	\$10,868,000	\$1,630,000	\$1,630,000	\$1,630,000	\$1,630,000	\$2,174,000	\$2,174,000
MN	\$ 15,646,093	3,265	\$ 1,564,609	\$14,360,000	\$2,154,000	\$2,154,000	\$2,154,000	\$2,154,000	\$2,872,000	\$2,872,000
MO	\$ 275,208	38	\$ 27,521	\$332,000	\$332,000					
MT	\$ 28,379,921	9,658	\$ 2,837,992	\$30,542,000	\$4,581,000	\$4,581,000	\$4,581,000	\$4,581,000	\$6,109,000	\$6,109,000
NE	\$ 326,802	69	\$ 32,680	\$478,000			\$478,000			
NM	\$ 2,038,002	770	\$ 203,800	\$2,791,000			\$2,791,000			
NC	\$ 530,376	169	\$ 53,038	\$677,000		\$677,000				
OR	\$ 41,423,188	8,982	\$ 4,142,319	\$45,718,000	\$6,858,000	\$6,858,000	\$6,858,000	\$6,858,000	\$9,143,000	\$9,143,000
PA	\$ 21,483,885	5,614	\$ 2,148,389	\$30,002,000	\$4,500,000	\$4,500,000	\$4,500,000	\$4,500,000	\$6,001,000	\$6,001,000
SD	\$ 121,060	10	\$ 12,106	\$119,000	\$119,000					
VA	\$ 12,518,109	6,832	\$ 1,251,811	\$22,206,000	\$3,331,000	\$3,331,000	\$3,331,000	\$3,331,000	\$4,441,000	\$4,441,000
WA	\$ 45,838,634	14,875	\$ 4,583,863	\$62,714,000	\$9,407,000	\$9,407,000	\$9,407,000	\$9,407,000	\$12,543,000	\$12,543,000
WI	\$ 3,135,120	832	\$ 313,512	\$3,732,000	\$1,244,000	\$1,244,000	\$1,244,000			
WY	\$ 9,855,321	1,468	\$ 985,532	\$12,208,000	\$1,831,000	\$1,831,000	\$1,831,000	\$1,831,000	\$2,442,000	\$2,442,000
	<b>\$ 262,367,614</b>	<b>77,257</b>	<b>\$ 26,236,761</b>	<b>\$338,253,000</b>	<b>\$51,212,000</b>	<b>\$51,438,000</b>	<b>\$54,030,000</b>	<b>\$49,517,000</b>	<b>\$66,028,000</b>	<b>\$66,028,000</b>

CUB Exhibit 103 is confidential and will be provided to parties that have executed Protective Order No. 22-352.



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Legacy Funds 



# Rural Digital Opportunity Fund


The Rural Digital Opportunity Fund (RDOF) will disburse up to \$20.4 billion over 10 years to bring fixed broadband and voice service to millions of unserved homes and small businesses in rural America. Building on the success of

([https://www.usac.org/high-cost/funds/caf-phase-ii-](https://www.usac.org/high-cost/funds/caf-phase-ii-auction/)


the Connect America Fund Phase II Auction ([CAF II Auction auction/](https://www.usac.org/high-cost/funds/caf-phase-ii-auction/)) RDOF uses a two-phase, competitive reverse

auction (Auction 904) that prioritizes higher network speeds and lower latency to ensure the deployment of robust, sustainable high speed networks that meet the needs of consumers now and in the future. [Learn more](#) .

The [RDOF Phase I Auction](#)  ended on Nov. 25, 2020 and awarded \$9.2 billion in support to 180 winning bidders, including incumbent telephone companies, cable operators, electric cooperatives, satellite operators and fixed wireless providers. Winning bidders have committed to deploy broadband to more than 5.2 million homes and small businesses in census blocks that previously lacked broadband service with minimum speeds of 25 megabits per second downstream and 3 megabits per second upstream (25/3 Mbps) as determined by [FCC Form 477](#) , data.

Nearly all of these locations are expected to receive access to broadband speeds of at least 100 megabits per second downstream and 20 megabits per second upstream (100/20 Mbps), and more than 85 percent are in areas where the winning bidder has committed to provide gigabit-speed service. The RDOF Phase II Auction will award up to another \$11.2 billion in support to bring broadband and voice to census blocks determined as partially served by the FCC's new granular broadband mapping approach, Digital Opportunity Data Collection ([DODC](#) ) , and the remaining unserved areas not reached through RDOF Phase I.

## How the Program Works

Every RDOF winning bidder (or its assignee) must file a long-form application ([FCC Form 683](#) ) with the FCC. As part of this process, the long-form applicant must obtain an eligible telecommunications carrier (ETC) designation from the relevant states or FCC, submit detailed technology and system design descriptions, including a network diagram certified by a professional engineer, and provide a Project Funding Description detailing how it plans to fund its proposed buildout.

If the long-form applicant satisfies the application requirements, the FCC issues a "Ready to Authorize" public notice and the long-form applicant will have 10 business days to submit an irrevocable, stand-by Letter of Credit (LOC) from a qualified bank covering at least the first year of support for each state where it will receive support, as well as a Bankruptcy Opinion of Counsel (OOC) letter from outside legal counsel. (Please see below for more information about how to draft acceptable LOC and OOC documents)

Once all required information has been submitted and the application is complete, the FCC will issue a public notice announcing authorization of support for the winning bid and directing USAC to begin disbursing payments. USAC will then assign a study area code to the applicant for each state where it is authorized to receive support and begin issuing monthly payments shortly after the public notice has been released.

While RDOF support will be disbursed over a period of 10 years, carriers must complete deployment by the end of the eighth year to all locations in areas eligible for support and must meet interim deployment milestones along the way. A reassessment in year six of the program will revise location counts and deployment obligations (and adjust support in certain circumstances).

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RDOF participants must file and certify deployment data annually in the [HUBB hubb](#) (High Cost Universal Broadband) portal reporting all locations built out in the prior year, and should be prepared to provide documentation to the High Cost compliance team to substantiate build-out. The compliance team will conduct





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[verification reviews](#) (of both interim and final milestones to confirm deployment to a sample of locations reported to the HUBB).

## Letter of Credit

Every winning bidder must provide an irrevocable, stand-by LOC from a qualified bank covering at least the first year of support for all winning bids within a single state for each state where it will receive support. LOC requirements increase over the first three years of the program – to 18 months of total support in year two, two years of total support in year three and three years of total support in year four – until USAC verifies that the carrier has met the first mandatory interim deployment milestone, for 40 percent deployment, which applies at the end of year three (which is the end of 2024 for carriers authorized in 2021, and at the end of 2025 for carriers authorized in 2022 or later).

Please refer to the following resources to ensure that a LOC and OOC letter contain all necessary information. USAC will reject documents that do not contain proper information.

- [RDOF Sample Letter of Credit Evergreen](#) 
- [RDOF Sample Letter of Credit Fixed End Date](#) 
- [RDOF Letter of Credit Checklist](#) 
- [RDOF Bankruptcy Opinion of Counsel Considerations](#) 

A carrier can reduce its LOC value to one year of support if it meets deployment milestones and passes USAC verification review of those milestones, and can request a verification review at any time (instead of waiting until the end of a particular support year) in order to reduce a LOC value. A carrier may also reduce its LOC value to one year of support upon verification by the USAC compliance team that it has met an optional 20 percent build-out milestone by the end of the second year of the program (the end of the second full calendar year following funding authorization). This optional 20 percent milestone applies at the end of 2023 for carriers authorized in 2021, and the end of 2024 for carriers authorized in 2022 or later.


A carrier that continues to meet its deployment milestones may maintain a LOC value of one year of support assuming it continues to pass USAC milestone verification reviews, and may close out its LOC altogether once it is fully deployed to all locations in its eligible areas and passes verification review.



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RDOF participants should familiarize themselves with USAC's [verification review process](#) and procedures, and understand what evidence they may need to supply for the compliance team to verify buildout, before requesting a review. **A carrier must contact [hcverifications@usac.org](mailto:hcverifications@usac.org) (mailto:hcverifications@usac.org) and milestone verification review after certifying its deployment data in the HUBB.**

Once a carrier requests a verification review, it will receive an automated email that contains a blank [process questionnaire](https://www.usac.org/process-questionnaire-questions) ([attached as a Word document](#)) for carriers to download and complete as part of the pre-verification process. This questionnaire collects information about the steps and methodology that the carrier used to identify locations for broadband deployment and report those locations in the HUBB, as well as the types of evidence that carrier could provide to prove deployment. Carriers must upload the completed process questionnaire, as well as examples of evidence to substantiate speed, date and unit count, at one time using the link in the email to avoid a delay in processing of this information. USAC performs on-demand milestone reviews in the order that requests are received and typically takes about 90 days after sending an official announcement letter to a carrier to complete a review, although this timeline may be subject to change.

The FCC maintains larger LOC value requirements – up to three years of support – for carriers that fail to meet deployment milestones. Any carrier participating in RDOF may be subject to non-compliance measures if it fails to meet its build-out obligations and/or other service requirements. [Non-compliance measures](#)  may include additional reporting requirements, reduction of support or a draw on the carrier's LOC.

## Deployment Requirements

RDOF participants must offer stand-alone voice service and broadband service at speeds consistent with their winning bids (which must be at least 25 Mbps downstream and 3 Mbps upstream (25/3 Mbps)) at rates reasonably comparable to those available in urban areas to all locations within an awarded area over eight years of the 10-year program. Initial interim deployment milestones are based on those adopted for the CAF Phase II Auction program. Carriers must complete:

- 40 percent of deployments by the end of year 3 (the end of the third full calendar year following funding authorization – which is the end of 2024 for carriers authorized in 2021, and at the end of 2025 for carriers authorized in 2022 or later)
- 60 percent of deployments by the end of year 4
- 80 percent of deployments by the end of year 5
- 100 percent of deployments by the end of year 6

The FCC will publish revised location counts by the end of year six, and winning bidders must serve 100 percent of revised location counts by the end of year eight. Carriers with new location counts that exceed the original location count by more than 35 percent will have the opportunity to seek additional support or relief from the FCC. Carriers with fewer locations must report this to the FCC no later than March 1 following the fifth year of deployment and must complete deployment by the end of year six. Carriers with new location counts that are less than 65 percent of the original location count will see support reduced on a pro-rata basis.

# Annual Filing Requirements

Carriers receiving RDOF support must comply with the following filing and certification requirements annually:

- **March 1:** Submit and certify geolocated broadband deployment data showing where the carrier built out broadband by latitude and longitude in the previous calendar year (and complete separate deployment milestone certifications), or certify that the carrier has “no locations to upload.” [Submit Locations in the](https://www.usac.org/high-cost/annual-requirements/submit-data-in-the-verification-) (https://www.usac.org/high-cost/resources/fund-verification-)

HUBB hubUSAC will conduct verification reviews reviews) firm deployment to a random sample of locations reported in the HUBB following each deployment milestone. Carriers must notify the FCC and USAC, and relevant state, U.S. Territory or Tribal governments if applicable, within 10 business days after the applicable deadline if they have failed to meet a build-out milestone (see 47 CFR Section 54.320(d) [↗](#)).

- (https://www.usac.org/high-cost/annual-requirements/file-fcc-form-)

**July 1:** Certify financial and operational data collected by [FCC Form 481 481/](#)

- **October 1:** Certify that the carrier is eligible to receive High Cost support and used all support received in the proceeding calendar year only to provide, maintain and upgrade the facilities for which the support was intended and will do the same in the coming calendar year. State utility commissions certify carriers under their jurisdiction as eligible telecommunications carriers (ETCs). Carriers not subject to state jurisdiction self- (https://www.usac.org/high-cost/annual-requirements/certify-data-with-54-

certify. [Learn more about the annual ETC certification 314/](#)









## Related Orders

- Rural Digital Opportunity Fund Notice of Proposed Rulemaking (FCC 19-77 [PDF](#)).
- Rural Digital Opportunity Fund (RDOF) Report and Order (FCC 20-5 [PDF](#)).
- FCC Proposes RDOF Auction (Auction 904) Procedures (FCC 20-21 [PDF](#)).
- FCC Adopts RDOF Auction Procedures (FCC 20-77 [PDF](#)).
- FCC Resolves Auction 904 Reconsideration Petitions (FCC 20-127 [PDF](#)).
- FCC Releases Auction 904 Technical Guide on Proposed Bidding Procedures (DA 20-210 [PDF](#)).

- FCC Releases Preliminary List and Map of RDOF Eligible Areas ([DA 20-275](#) [PDF](#)).
- FCC Provides LOOC Guidance for Eligibility of Non-U.S. Banks ([DA 20-307](#) [PDF](#)).
- Technical Guide Available for Auction 904 Bidding Procedures ([DA 20-611](#) [PDF](#)).
- Instructions Available for Auction 904 Short-Form Application ([DA 20-626](#) [PDF](#)).
- FCC Releases Updated List and Map of RDOF Eligible Areas ([DA 20-665](#) [PDF](#))
- FCC Announces Opening of Filing Window for Entities to File Short-Form Applications to Participate in Auction 904 ([DA 20-701](#) [PDF](#)).
- FCC Releases Final List and Map of RDOF Eligible Areas ([DA 20-1173](#) [PDF](#)).
- FCC Identifies 386 Applicants Qualified to Bid in Auction 904 ([DA 20-1187](#) [PDF](#)).
- FCC Addresses Requests for Waiver of Auction 904 Short-Form Application Requirements ([DA 20-1194](#) [PDF](#)).
- FCC Announces Availability of Data for Census Block Groups to be Included in Auction 904 ([DA 20-1242](#) [DOC](#)).
- FCC Announces Winning RDOF Bidders ([DA 20-1422](#) [PDF](#)).
  - [Attachment A](#) [PDF](#): Winning Bidders Summary lists for each bidder: the state, the 10-year assigned support amount, and the number of locations assigned in winning bids.
  - [Attachment B](#) [PDF](#): State Results Summary lists for each state with eligible areas in Auction 904: the total 10-year assigned support, the number of locations assigned, and the number of bidders with winning bids.
  - [Attachment C](#) [PDF](#): FCC Form 683: Application for Rural Digital Opportunity Fund Phase I Support – Instructions.
- Ready to Authorize PN for 1,460 Winning Bids ([DA 21-909](#) [PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Support Authorized for 466 Winning Bids ([DA 21-1158](#) [PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 484 Winning Bids ([DA 21-1255](#) [PDF](#)) and Preliminary List of Areas Subject to Default ([DA 21-1256](#) [PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for long-form applicants do not intend to pursue support for some or all of their winning bids.
- Support Authorized for 469 Winning Bids ([DA 21-1287](#) [PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 1,774 Winning Bids ([DA 21-1310](#) [PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Ready to Authorize PN for 2,081 Winning Bids ([DA 21-1402](#) [PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Support Authorized for 311 Winning Bids ([DA 21-1420](#) [PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.


- Support Authorized for 2,008 Winning Bids ([DA 21-1560 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 7,608 Winning Bids ([FCC 21-1582 PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Support Authorized for 2,521 Winning Bids ([DA 22-38 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 5,254 Winning Bids ([DA 22-96 PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Support Authorized for 2,576 Winning Bids ([DA 22-151 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Support Authorized for 952 Winning Bids ([DA 22-185 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 952 Winning Bids ([DA 22-185 PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Support Authorized for 5,223 Winning Bids ([DA 22-280 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 557 Winning Bids ([DA 22-317 PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Support Authorized for 1,345 Winning Bids ([DA 22-402 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 2,324 Winning Bids ([DA 22-483 PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Support Authorized for 830 Winning Bids ([DA 22-523 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 88 Winning Bids ([DA 22-581 PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF.
- Support Authorized for 513 Winning Bids ([DA 22-634 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Support Authorized for 1,605 Winning Bids ([DA 22-759 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Support Authorized for 95 Winning Bids ([DA 22-826 PDF](#)) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Ready to Authorize PN for 80 Winning Bids; Bid Defaults Announced ([DA 22-848 PDF](#)) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now

Ready to Be Authorized for RDOF, and rejects certain long-form applications.

- FCC Announces Nearly \$800 Million in RDOF Funding for Broadband ([DA 22-911](#) ) .
- Support Authorized for 49 Winning Bids ([DA 22-944](#) ) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Support Authorized for 1,865 Winning Bids; Bid Defaults Announced ([DA 22-1086](#) ) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice, and rejects certain long-form applications.
- Support Authorized for 497 Winning Bids; Bid Defaults Announced ([DA 22-1181](#) ) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice, and rejects certain long-form applications.
- Ready to Authorize PN for 1,764 Winning Bids; Bid Defaults Announced ([DA 22-1321](#) ) – The Commission provides the deadline and direction on how to submit the required LOC and OOC for carriers that are now Ready to Be Authorized for RDOF, and rejects certain long-form applications.
- Support Authorized for 80 Winning Bids ([DA 22-1322](#) ) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice.
- Support Authorized for 1,764 Winning Bids; Petition for Waiver Denied ([DA 23-33](#) ) – The Commission directs and authorizes USAC to obligate and disburse the amounts identified in the Public Notice, and denies petition for waiver from Etheric Communications.
- Bid Defaults Announced ([DA 23-616](#) ) – The Commission announces that a long-form applicant has defaulted, and denies a petition for waiver.

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**A. The Stipulating Parties claim that the Stipulated Price Plan “should sufficiently protect customers covered by the Jacksonville Orders”. Does the Price Plan sufficiently protect these customers? Does it provide equal or better protection for customers than the Jacksonville Orders?**

A. The Stipulating Parties claim that “upon adoption by the Commission the Price Plan should sufficiently protect customers covered by the Jacksonville Orders.”<sup>1</sup> CUB argues that the Stipulating Parties have not provided sufficient evidence for this claim. The efficacy of the Price Plan is unknown and the Stipulating Parties failed to show that Price Plan would equivalently incent Lumen relative to the Jacksonville Orders under various service quality incidents.

Under the Jacksonville Orders, the Company is potentially liable for penalties up to \$50,000 per violation per day. If 5 customers in Jacksonville are not provided adequate service for 5 days for unwarranted reasons, the Company is vulnerable to \$1,250,000 in penalties. Conversely, under the Price Plan, the same incident for the same 5 customers would be diluted within the Company’s aggregate service quality record for its 4,100 Protected Customers. This example illustrates how the Price Plan dilutes the issues experienced by customers in Jacksonville among a broader group of customers and doesn’t provide Lumen with the same financial incentive to proactively and comprehensively resolve its infrastructure deficiencies in the Jacksonville area.

While CUB is supportive of broadening protection to customers beyond the Jacksonville area, CUB recognizes that the purpose of this investigation was the alarming frequency of

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<sup>1</sup> UM 1908 – *Price Plan Hearing-- Stipulating Parties' Testimony in Support of Stipulation of Russ Beitzel and Peter Gose*, Stipulating Parties/100 Beitzel and Gose/20 (Oct. 10, 2023).

issues experienced by Jacksonville area customers, and is wary of having their service quality issues, and Lumen's incentive to address them immediately and invest in durable long-term solutions, diluted.

The Commission found that the Jacksonville Orders were necessary to protect the health and safety of these customers.<sup>2</sup> The Company's proposed long-term solution to Jacksonville area service quality issues is fiber and that fiber is not yet installed or shown to be a comprehensive solution for all Jacksonville area customers (this is discussed later in testimony). Accordingly, the high risk to Jacksonville area customers remains and removing the protections of the Jacksonville Orders is not justified.

Further, while the Jacksonville Orders appear to have some efficacy, previous Price Plans, which relied on the standard service quality review process under the Commission rules, have not been effective. Despite agreeing in the last two Price Plans to comply with the Commission's service quality rules, Lumen was found to be out compliance and no penalties were assessed. CUB is concerned that the Stipulation Price Plan, which will also rely on the standard service quality review process under the Commission rules in lieu of the Jacksonville Orders, will be similarly ineffective at addressing specific service quality incidents.

The Stipulation also removes the Jacksonville customers' ability to report multiple customer issues and create multiple tickets. This protection is important to customers in this area given not all of those customers have alternative voice systems or may be out of cell phone range and therefore cannot contact the Company to report outages.<sup>3</sup> By removing the

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<sup>2</sup> UM 1908 – Order No. 23-109 at 20.

<sup>3</sup> *Id.* at 11.



requirement for detailed trouble ticket reporting and repair clearing time reporting, the ability to observe the timeliness and quality of repair efforts, particularly related to patterns of inadequate service and noncompliance, is removed.

The Jacksonville Orders have motivated Lumen to move more quickly to address trouble reports in the Jacksonville area and possibly accelerated Lumen's plans to build out fiber in this region. CUB argues the Jacksonville Orders provide stronger incentive than the Stipulation Price Plan and at minimum, the efficacy of the Stipulation Price Plan cannot be relied upon to replace the Jacksonville before the effects of the Stipulation Price Plan have been assessed.

**UM 1908 – CERTIFICATE OF SERVICE**

I hereby certify that, on this 15<sup>th</sup> day of November, 2023, I served the foregoing **CUB Errata Testimony and Exhibits** in docket UM 1908 upon the Commission and each party designated to receive confidential information pursuant to Order 22-352 by secure 7-zip file.

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Respectfully submitted,

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