

**DUNCAN, TIGER & NIEGEL, P.C.**

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October 7, 2004

**VIA E-MAIL AND U.S. MAIL**

Cheryl Walker  
Oregon Public Utility Commission  
550 Capitol Street NE, Suite 215  
PO Box 2148  
Salem, OR 97308-2148

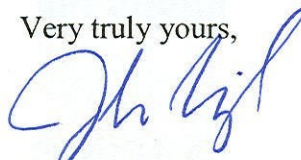
RE: UM 1140 – Petition to Intervene of Clear Creek Mutual Telephone Company

Dear Ms. Walker:

Enclosed please find an original and five copies of the Petition to Intervene of Clear Creek Mutual Telephone Company for filing in the above-mentioned matter.

Please do not hesitate to contact me if you have any questions or desire additional information.

Very truly yours,



Jennifer L. Niegel

Enclosures

cc: Service List (via e-mail and U.S. mail)

1  
2  
3  
4 **BEFORE THE PUBLIC UTILITY COMMISSION**  
5 **OF OREGON**

6 UM 1140

7 In the Matter of the Application of BEAVER ) PETITION TO INTERVENE OF CLEAR  
8 CREEK COOPERATIVE TELEPHONE ) CREEK MUTUAL TELEPHONE  
9 COMPANY Request to Consolidate the ) COMPANY  
Beaver Creek Rate Center with the Clackamas )  
Rate Center )

10 Pursuant to OAR 860-013-0021, Clear Creek Mutual Telephone Company ("Clear  
11 Creek") submits this Petition to Intervene in the above-mentioned docket.

12 **I. The Name and Address of Petitioner**

13 Clear Creek Mutual Telephone Company  
14 18238 South Fischers Mill Road  
Oregon City, Oregon 97045-9696

15 **II. The Name and Address of Attorneys for Petitioner**

16 Jennifer L. Niegel, OSB#99089  
17 James D. Tiger, OSB#71172  
Duncan, Tiger & Niegel, P.C.  
18 582 E. Washington Street  
PO Box 248  
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[jim@staytonlaw.com](mailto:jim@staytonlaw.com)

21 Mark P. Trincherro  
22 Davis Wright Tremaine LLP  
1300 S.W. Fifth Avenue, Suite 2300



1 Portland, OR 97201  
2 Telephone: (503) 778-5318  
3 Fax: (503) 778-5299  
4 Email: [marktrincher@dwt.com](mailto:marktrincher@dwt.com)

5 **III. The Number of Members in and the Purposes of the Organization**

6 Clear Creek is a cooperative corporation and the incumbent local exchange carrier for the  
7 Redland exchange. Clear Creek's Redland exchange adjoins the Beaver Creek exchange.

8 **IV. The Nature and Extent of Petitioner's Interest in the Proceeding**

9 Beaver Creek Cooperative Telephone Company ("BCT") submitted a letter in CP 1242  
10 and CP 1243 requesting that those dockets be held in abeyance pending the outcome of this  
11 proceeding and UCB 18 because BCT claims that this proceeding and UCB 18 involve issues  
12 that overlap with the issues raised in CP 1242 and CP 1243 and, therefore, that the outcome of  
13 this proceeding and UCB 18 will affect and/or resolve some of the issues in CP 1242 and CP  
14 1243. A copy of BCT's letter is attached hereto as Exhibit 1 and hereby incorporated herein.  
15 BCT's request to suspend the schedule was granted for 60 days. A copy of the Administrative  
16 Law Judge's Ruling is attached hereto as Exhibit 2 and hereby incorporated herein.

17 Clear Creek filed a protest in CP 1242 and CP 1243 alleging, among other things, that  
18 BCT is providing intraexchange switched (dial tone) telecommunications service to customers  
19 within the Redland Exchange without a certificate of authority in violation of ORS 759.020(1),  
20 that BCT is illegally using Clear Creek's network interface devices without permission and  
21 without compensation, and that BCT is not complying with the North American Numbering Plan  
22 Administration Rules and related state law. Since Clear Creek may be impacted by the decisions  
the Commission makes in this docket, Clear Creek has an interest in the issues raised in this  
proceeding and should be allowed to participate as an intervenor.

1 **V. The Issues Petitioner Intends to Raise at the Proceeding**

2 Clear Creek will address such issues as it deems relevant in this proceeding.

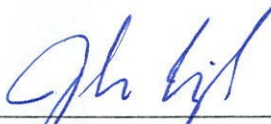
3 **VI. Any Special Knowledge or Expertise of the Petitioner Which Would Assist**  
4 **the Commission in Resolving the Issues in the Proceeding**

5 Due to its involvement in docket CP 1242 and CP 1243, Clear Creek is acutely aware of  
6 issues in this proceeding related to BCT's use or misuse of numbering resources. Therefore,  
7 Clear Creek has knowledge and expertise that will assist the Commission and the parties in  
8 addressing the issues presented in this proceeding.

9 **VII. Conclusion**

10 Based on the information provided above in accordance with the Commission's rules of  
11 procedure, Clear Creek requests to participate in this proceeding as an intervenor. Although an  
12 August 31, 2004, deadline had been established for the filing of petitions to intervene, BCT did  
13 not file its motion to delay CP 1242 and CP 1243 pending the outcome of this proceeding until  
14 long after that date. Despite this fact, Clear Creek believes that its appearance and participation  
15 will not unreasonably broaden the issues, burden the record or unreasonably delay the  
16 proceeding. Therefore, Clear Creek respectfully requests that the Commission grant its Petition  
17 to Intervene in this proceeding with all the rights afforded a full party under Oregon law and the  
18 Commission's rules.

19 DATED: October 7, 2004.

20  
21   
22 \_\_\_\_\_  
Jennifer L. Niegel, OSB#99089  
Of Attorneys for Clear Creek



1 CERTIFICATE OF SERVICE

2 I hereby certify that on October 7, 2004, I served the foregoing Petition to Intervene of  
3 Clear Creek Mutual Telephone Company upon all parties of record in this docket UM 1140 by  
4 causing a full, true and correct copy thereof to be sent by mail in a sealed, first-class postage-  
5 prepaid envelope deposited with the United States Postal Service at Stayton, Oregon and by e-  
6 mail to the following:

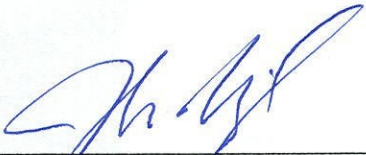
7 Alex M. Duarte  
8 Qwest Corporation  
9 421 SW Oak St. Ste 810  
10 Portland, OR 97204  
11 [alex.duarte@qwest.com](mailto:alex.duarte@qwest.com)

12 Tom A. Linstrom  
13 Beaver Creek Cooperative Telephone Co.  
14 15223 S. Henrici Rd.  
15 Oregon City, OR 97045  
16 [tlinstrom@bctelco.com](mailto:tlinstrom@bctelco.com)

17 Richard A. Finnigan  
18 Law Office of Richard A. Finnigan  
19 2405 Evergreen Park Dr. SW Ste B-1  
20 Olympia, WA 98502  
21 [rickfinn@ywave.com](mailto:rickfinn@ywave.com)

22 Jay Nusbaum  
Perkins Coie, LLP  
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Portland, OR 97209-4128  
[nusbj@perkinscoie.com](mailto:nusbj@perkinscoie.com)

DATED: October 7, 2004.

  
Jennifer L. Niegel, OSB#99089  
Of Attorneys for Clear Creek



OCT 06 2004

Law Office of  
Richard A. Finnigan

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(360) 956-7001

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Fax (360) 753-6862

Kathy McCrary, Paralegal  
(360) 753-7012  
Lisa Skelley, Legal Asst.  
(360) 753-4679

October 4, 2004

COPY

**VIA E-MAIL AND U.S. MAIL**

Annette Taylor  
Oregon Public Utility Commission  
PO Box 2148  
Salem, OR 97301

Re: Relationship of CP 1242 and CP 1243 to UM 1140 and UCB 18

Dear Ms. Taylor:

As you are aware, I am counsel to Beaver Creek Cooperative Telephone Company (BCT) for Dockets UM 1140 and UCB 18. This letter should not be taken as an appearance on behalf of BCT in CP 1242 or CP 1243. It is my understanding that the parties in CP 1242 and CP 1243 have agreed that I can submit this letter on behalf of BCT as counsel to BCT in the other dockets.

It is my understanding that during a conference call on September 29, BCT suggested that there may be substantial overlap in issues between UM 1140 and UCB 18 on the one hand and CP 1242 and CP 1243 on the other hand. It may be that the process for CP 1242 and CP 1243 may be simplified and resources conserved if certain issues are resolved in UM 1140 and UCB 18. On that basis, BCT requested that the matters in CP 1242 and CP 1243 be held in abeyance.

Whether or not the other parties agree that there are substantial overlap of issues, the parties in CP 1242 and CP 1243 agreed that those dockets could be held in abeyance pending the outcome of UM 1140 and UCB 18. There is a caveat that any party is free to request that CP 1242 and CP 1243 move forward if the matters in UM 1140 or UCB 18 are suffering undue delay. Of

Exhibit 1

Page 1



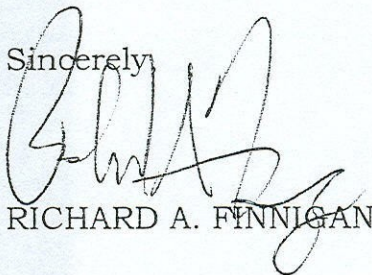
Annette Taylor  
October 4, 2004  
Page 2

course, any other party would be free to object to that request to reinstate the schedule for CP 1242 and CP 1243 and such request and objection, if any, would be resolved in due course in those dockets.

Thus, this letter requests that CP 1242 and CP 1243 be held in abeyance as outlined above.

Again, this letter should not be taken as my appearance on behalf of BCT for the substantive issues in CP 1242 and CP 1243.

Sincerely,



RICHARD A. FINNIGAN

RAF/km

cc: Service List (CP 1242)  
Tom Linstrom



CERTIFICATE OF SERVICE

CP 1242

I hereby certify that I have sent the attached letter to Annette Taylor dated October 4, 2004, by e-mail and U.S. mail to the following:

CYNTHIA VAN LANDUYT  
PUBLIC UTILITY COMMISSION  
PO BOX 2148  
SALEM OR 97308-2148  
cynthia.vanlanduyt@state.or.us

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DAVIS WRIGHT TREMAINE LLP  
1300 SW FIFTH AVE STE 2300  
PORTLAND OR 97201-5682  
marktrincher@dw.com

MICHAEL T WEIRICH  
DEPARTMENT OF JUSTICE  
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SALEM OR 97301-4096  
michael.weirich@state.or.us

JENNIFER NIEGEL  
DUNCAN TIGER & NIEGEL PC  
PO BOX 248  
STAYTON OR 97383-0248  
jennifer@staytonlaw.com

ALEX DUARTE  
QWEST CORPORATION  
421 SW OAK STREET, ROOM 810  
PORTLAND, OR 97204  
alex.duarte@qwest.com

I further certify that I have sent the original and five copies of the attached letter to Annette Taylor dated October 4, 2004, to the following by e-mail and U.S. mail:

ANNETTE TAYLOR  
PUBLIC UTILITY COMMISSION OF OREGON  
PO BOX 2148  
SALEM, OR 97308-2148  
annette.m.taylor@state.or.us

Dated this 4th day of October, 2004.



Richard A. Finnigan, OSB No. 96535  
Attorney for Beaver Creek  
Cooperative Telephone Company



OCT 07 2004

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

CP 1242/ CP 1243

In the Matters of )  
 )  
 BEAVER CREEK COOPERATIVE )  
 TELEPHONE COMPANY )  
 )  
 Application for a Certificate of Authority )  
 to Provide Telecommunications Service in )  
 Oregon and Classification as a Competitive )  
 Telecommunications Provider, (CP 1242) )  
 )  
 and )  
 )  
 ASSOCIATED COOPERATIVE )  
 TELECOMMUNICATIONS, INC. )  
 )  
 Application for a Certificate of Authority )  
 to Provide Telecommunications Service in )  
 Oregon and Classification as a Competitive )  
 Telecommunications Provider. (CP 1243) )

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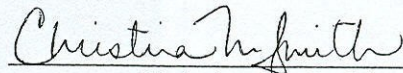
RULING

DISPOSITION: SCHEDULE SUSPENDED

On October 4, 2004, Beaver Creek Cooperative Telephone Company (Beaver Creek) submitted a letter requesting that these dockets be held in abeyance pending the resolution of other dockets before the Commission. Specifically, UCB 18 and UM 1140 involve issues that overlap with the issues raised in CP 1242 and CP 1243, therefore the schedule in this case should be suspended so as to conserve resources.

The request to suspend the schedule is granted for 60 days. September 30, 2004, was the last deadline in this case, and that will be the starting point for the 60-day suspension. At the end of that period, the applicants are requested to submit an update on whether this case should proceed or be further suspended. The schedule will be suspended up to 180 days, at which time the parties should either be prepared to proceed or state why the cases should not be dismissed without prejudice.

Dated at Salem, Oregon, this 5th day of October, 2004.

  
 \_\_\_\_\_  
 Christina M. Smith  
 Administrative Law Judge