

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

DOCKET NO. UM 1191

QWEST CORPORATION,)	
)	FILING OF STIPULATION
Complainant,)	
)	
vs.)	
)	
CENTRAL ELECTRIC COOPERATIVE,)	
INC.,)	
)	
Defendant.)	
_____)	

Pursuant to the Scheduling Order following the scheduling conference of April 1, 2005, CEC conveyed to Qwest the Stipulation for Sanctions that arose out of the scheduling conference. That Stipulation was sent to Qwest on April 14, 2005. Following the transmittal of that Stipulation to Qwest, Qwest rewrote the Stipulation in a form that was not mutually satisfactory.

Since receiving Qwest's proposed revisions to the Stipulation, CEC has been in direct communication with Qwest's attorney. Qwest's attorney as agreed to redraft the Stipulation to accommodate the concerns of both parties. To date, Qwest has not provided CEC with a revised Stipulation.

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Attached hereto is the original Stipulation prepared by CEC that complies with the Court's Order following the scheduling conference on April 1, 2005. Also attached is our letter conveying that Stipulation to Qwest. This conveyance was made well within the time constraints of the Court's Order.

DATED this 5th day of May, 2005.

FRANCIS HANSEN & MARTIN, LLP

 /s Martin E. Hansen
Martin E. Hansen, OSB #80052
Of Attorneys for Plaintiff

CERTIFICATE OF TRUE COPY

I hereby certify that the foregoing **FILING OF STIPULATION** is a true, exact and full copy of the original thereof.

DATED: May 5, 2005

Martin E. Hansen, OSB #80052
Of Attorneys for Defendant
Central Electric Cooperative, Inc.

CERTIFICATE OF MAILING

I certify that I served the foregoing document(s) by fax and by depositing a true, full and exact copy thereof in the United States Post Office at Bend, Oregon, on May 5, 2005, enclosed in a sealed envelope with postage thereon, addressed to:

Lawrence Reichman
John P. (Jay) Nusbaum
PERKINS COIE LLP
1120 NW Couch Street, 10th Flr.
Portland, OR 97209
503-727-2000

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Regulated Utility & Business Section
1162 Court St. NE
Salem, OR 97301

Amy Tykeson
Bend Cable Communications, Inc.
63090 Sherman Road
Bend, OR 97701

/s Martin E. Hansen

Martin E. Hansen, OSB #80052
Of Attorneys for Defendant
Central Electric Cooperative, Inc.

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April 14, 2005

VIA FACSIMILE 503 – 727-2222

Jay Nusbaum
Perkins Coie LLP
1120 NW Couch 10th Floor
Portland, OR 97209

Re: CEC vs. Qwest – PUC Stipulation

Dear Jay:

I'm enclosing with this letter a copy of the proposed Stipulation that we discussed before Judge Smith on April 1, 2005. Please take a look at it to see that it meets your needs. Call if you have any questions.

Sincerely,

MARTIN E. HANSEN

MEH:ph

enclosure

cc: Dave Markham

Michael H. Simon
Perkins Coie LLP
1020 NW Couch 10th Floor
Portland, OR 97209

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

DOCKET NO. UM 1191

QWEST CORPORATION,)	
)	
Complainant,)	STIPULATION REGARDING
)	EFFECT OF PUC PROCEEDINGS
vs.)	ON SANCTIONS FOR PENDING
)	AND CONTINUING UNAUTHORIZED
CENTRAL ELECTRIC COOPERATIVE,)	POLE CONTACTS
INC.,)	
)	
Defendant.)	
_____)	

RECITALS

Plaintiff Qwest Corporation ("Qwest") and defendant Central Electric Cooperative, Inc. ("CEC") appeared April 1, 2005 before Administrative Law Judge Christina Smith in the Public Utilities Commission of Oregon in this Docket and agreed upon a timeline for the progress of this Docket and the resolution of the issues the parties have introduced;

There is currently a final hearing scheduled for September 2005. In the interim, the parties have agreed to deadlines for framing the issues herein, for attending a mediation, for requesting and completing discovery, and for introducing written testimony, among other things; and

CEC has previously assessed sanctions to plaintiff Qwest for Qwest's unauthorized contacts to defendant's poles that occurred during calendar year 2004 and 2005. CEC assessed those sanctions on a yearly basis.

STIPULATION

CEC hereby stipulates that CEC will not assess any additional or compounded sanctions for the period of calendar years 2004 and 2005 for those unauthorized

contacts by Qwest to defendant's poles for which CEC has already assessed sanctions to Qwest for calendar years 2004 and 2005, subject to the following exceptions:

1. There is pending litigation between the parties in the U.S. District Court of Oregon, 05-CV-6017-AA, regarding Qwest's unauthorized contacts. Nothing in this Stipulation limits or affects CEC's rights or claims for penalties, sanctions, or other relief already filed in that action.

2. CEC reserves the right to assess sanctions at any time for any applicable periods for unauthorized contacts by Qwest to CEC property that are either (a) newly connected by Qwest or (b) newly discovered by CEC, that have not previously been the subject of sanctions by CEC to Qwest;

3. CEC reserves its right under the PUC regulations to assess any and all sanctions for violation of PUC regulations (or contract terms, if applicable) during calendar year 2006 for any unauthorized contacts, including previously sanctioned contacts, by Qwest to CEC's facilities regardless of the status of proceedings that are pending in the PUC or any other Court or forum.

4. This Stipulation is not effective unless and until signed by attorneys for both Qwest and CEC.

SO STIPULATED By:

Martin E. Hansen, OSB #80052
FRANCIS HANSEN & MARTIN, LLP
Of Attorneys for Central Electric Cooperative

DATE

Jay Nusbaum, OSB #96378
PERKINS COIE LLP
Of Attorneys for Qwest Corporation

DATE

2 - STIPULATION REGARDING CONTINUING UNAUTHORIZED POLE CONTACTS

CERTIFICATE OF TRUE COPY

I hereby certify that the foregoing **STIPULATION REGARDING CONTINUING UNAUTHORIZED POLE CONTACTS** is a true, exact and full copy of the original thereof.

DATED this _____ day of April 2005.

Martin E. Hansen, OSB #80052
Of Attorneys for Defendant
Central Electric Cooperative, Inc.

CERTIFICATE OF MAILING

I certify that I served the foregoing document(s) by email and by depositing a true, full and exact copy thereof in the United States Post Office at Bend, Oregon, on April _____, 2005, enclosed in a sealed envelope with postage thereon, addressed to:

Lawrence Reichman
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Bend, OR 97701

/s/ Martin E. Hansen

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