

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1908, UM 2206

In the Matters of

LUMEN TECHNOLOGIES,¹

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).

Hearing Relating to Order Nos. 22-340
and 22-422

ORDER

DISPOSITION: ORDER NO. 22-340, AS MODIFIED BY ORDER NO. 22-422
AFFIRMED

In this order, we affirm Order No. 22-340, as modified by Order No. 22-422, and
conclude it should remain in effect as described below.

I. BACKGROUND AND INTRODUCTION

On September 23, 2022, the Commission issued Order No. 22-340 in docket UM 1908, Lumen's Price Plan Investigation.² In part, this order required Lumen to act to ensure telephone service for customers in areas surrounding Jacksonville, Oregon, subject to penalty for non-compliance. This order adopted PUC Staff's recommendation and imposed additional requirements from the Commission on Lumen to address service quality issues presenting immediate danger to customers.³ Order No. 22-340 adopted Staff's recommendations, as amended, to:

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

² In the papers filed in this matter, the company refers to itself as both Lumen and CenturyLink. For the purposes of this order, we use "Lumen" to refer to the company.

³ Order No. 22-340 at 1 (Sept. 23, 2022).

1. Modify Lumen's Price Plan to extend the original term of four years by no more than nine additional months;
2. Open an investigation into Lumen's Price Plan to determine whether the Price Plan is in the public interest according to the criteria in ORS 759.255(2), and if not, to determine what modification may enable such a finding; and
3. Direct Lumen to set up, staff, and report on a 24/7 dedicated customer support line for affected customers in the Jacksonville and Applegate areas for the duration of the investigation, and to resolve all reported service issues within certain parameters.

On September 27, 2022, Lumen filed a request for hearing under ORS 756.515(5) to determine whether Order No. 22-340 should remain in effect.⁴ This request argued that under ORS 756.515(6), Order No. 22-340 is automatically suspended and articulated reasons Lumen believed the Commission's order was unlawful.⁵ The Commission initiated a contested case process to facilitate Lumen's requested hearing.⁶ On October 11, 2022, the Commission provided notice of a potential modification to Order No. 22-340, and opened a public comment period on the proposed modification.

On October 28, 2022, the Commission issued Order No. 22-422 to modify a sentence in Order No. 22-340.⁷ This modification amended requirements for the 24/7 dedicated customer support line, and required Lumen to:

Address all tickets and make repairs in a manner that results in a consistent and functional dial tone and ability to reliably make and receive calls, or provide the customer with a functionally equivalent substitute service, as defined by Lumen's current tariffs, at no additional customer cost, within 48 hours of creation of the ticket until service issues in the area are remedied. Where repairs are not feasible because of a customer-premise issue preventing such dial tone and the ability to receive and make calls, Lumen must provide documentation of such issue to the customer and the Commission's Consumer Services Division.⁸

Order No. 22-422 made an explicit finding that the modified order was necessary for the public health or safety:

The record demonstrates that the Little Applegate area has experienced consistent, serious service issues; that adequate service is necessary for public health and safety in this area; and that adequate service is necessary for residents of this area to access essential emergency services, including medical services.⁹

⁴ Lumen's Request for Hearing at 1 (Sept. 27, 2022).

⁵ *Id.* at 1-2.

⁶ Ruling and Memorandum (Sept. 29, 2022).

⁷ Order No. 22-340, as modified by Order No. 22-422, is referred to as the modified order.

⁸ Order No. 22-422 at 9 (Oct. 28, 2022).

⁹ *Id.* at 3.

In support of this conclusion, Order No. 22-422 articulated extensive documentation from Staff and Lumen customers regarding service quality issues and public health and safety issues requiring consistent and dependable telephone service, in particular to access emergency services in a high wildfire risk area. The Commission directed the Administrative Hearings Division to schedule a hearing on the modified order. In addition to Lumen and Staff, the Oregon Citizen’s Utility Board (CUB) and Ms. Priscilla Weaver intervened as parties in this matter. A hearing on the modified order was held on December 21, 2022.

II. THE PARTIES’ POSITIONS

A. Lumen’s Arguments

Lumen generally argues that the modified order “unlawfully imposes a new service quality standard requiring [it] to clear all trouble reports from customers in the Jacksonville, Applegate, and surrounding areas in southern Oregon * * * within 48 hours * * *.”¹⁰ Lumen asserts the modified order should not remain in effect for several reasons, including that it exceeds the Commission’s authority, the company has resolved the service quality issues, and alternatives to Lumen exist for customers in the Jacksonville and Applegate areas.

1. *Lumen Asserts the Commission May Not Impose a Service Quality Standard Unique to Lumen or Without Following Formal Rulemaking Procedures.*

Lumen argues that the modified order unlawfully imposes a new service quality standard only on Lumen and that the Commission did so without following formal rulemaking procedures. Lumen explains that OAR 860-023-0055 contains the service quality standards applicable to telecommunications providers in Oregon and that the modified order deviates from the service quality standard in that rule regarding resolving trouble reports by requiring Lumen to resolve all trouble reports in the Jacksonville and Applegate areas within 48 hours. Lumen argues this is unlawful because ORS 759.450(2) requires minimum service quality standards to be modified only by rule. Lumen further asserts the modified order is unlawful because it applies only to Lumen, and ORS 759.450(2) requires that minimum service quality standards apply to all telecommunications carriers. Finally, Lumen asserts that in modifying the minimum service quality standards, the Commission failed to consider the statutory criteria articulated in ORS 759.450(3).

2. *Lumen Argues the Commission Did Not Give the Opportunity to Submit a Corrective Action Plan.*

Lumen asserts that because it believes the Commission concluded Lumen was not meeting minimum service quality standards, the Commission violated ORS 759.450(5)

¹⁰ Lumen’s Post-hearing Brief at 1 (Jan. 6, 2023).

and OAR 860-023-0055(14)(a) by not requiring the company to submit “a plan for improving performance to meet” minimum service quality standards before taking any other action against the company.

3. *Lumen Argues the Commission Exceeded Its Authority by Purportedly Amending Lumen’s Price Plan to Impose New Service Quality Measures.*

According to Lumen, the Commission amended Lumen’s Price Plan by requiring a 48-hour repair requirement on the company and did so without providing Lumen with notice of the change or an opportunity for a hearing on the Price Plan modification. Lumen argues that Price Plan adjustments are not intended to be remedies for isolated service quality issues, and that in Order No. 18-359, the Commission recognized Lumen would be subject to the Commission’s service quality rules to further monitor Lumen’s service quality in comparison to competitors. Lumen asserts this “departed from [the Commission’s] decades-long practice of announcing and allowing for input and dialogue on significant regulatory actions.”¹¹

4. *Lumen Asserts That the Modified Order is Unlawful Because Its Remedies Exceed Those Found in Lumen’s Tariffs.*

Lumen asserts the Jacksonville and Applegate areas are served under the terms, conditions, and rates described in the “Qwest Corporation PUC Oregon No. 33 tariff” that was acknowledged by the Commission in 2011. Lumen argues that the credits described in its tariff is the “exclusive lawful remedy to customers when lines are ‘out of service’ for more than 48 hours.”¹² According to Lumen, any remedy beyond that contained in its tariff is unlawful under the filed-rate doctrine.

5. *According to Lumen, It Has Remedied the Service Quality Issues.*

Lumen asserts that based on the evidence in the record, it “has fully addressed all service quality issues in the Area and is better prepared to address issues that may arise in the future” and therefore, the modified order need not remain in effect.¹³ Lumen explains it has taken a number of actions to address the service quality issues, including: “plac[ing] new pedestals and connect[ing] the remaining serviceable cable with the new cable segments,” replacing batteries, inspecting and repairing the 13-mile T-1 span cable plant, and implementing switch software upgrades, amongst other actions.¹⁴ Additionally, Lumen notes it “has taken other steps to ensure there are no delays in addressing future service outages” that has improved its “ability to react to conditions before they impact telecommunications services.”¹⁵

¹¹ Lumen’s Post-hearing Brief at 16 (Jan. 6, 2023).

¹² *Id.* at 17.

¹³ *Id.* at 19.

¹⁴ *Id.* at 19-20.

¹⁵ *Id.* at 21.

The company also asserts it has resolved all service complaints in the Jacksonville and Applegate area and that the number of calls to the dedicated customer service line have fallen. Lumen asserts that in November and December 2022, there were no service quality issues on its facilities.

6. *Lumen Asserts its Customers Have Alternatives for Voice Service.*

Lumen asserts that its customers in the Jacksonville and Applegate areas “have alternative voice service available to them, eliminating any public safety need for the [modified] Order to remain in place.”¹⁶

B. Staff’s Arguments

Staff disagrees with Lumen’s characterization of the modified order. Staff argues that the modified order is a lawful exercise of the Commission’s regulatory authority under a variety of statutes and that it does not represent enforcement of or a change to minimum service quality standards, nor does it alter Lumen’s price plan. As such, Staff asserts the modified order does not create or modify any administrative rules.

Staff cites numerous statutes providing the Commission with the authority to issue the modified order. According to Staff, ORS 756.515 grants the Commission investigative authority that allows the Commission to act in response to the findings of such an investigation. Staff argues that ORS 756.040 grants the Commission broad “authority to direct Lumen to take action to provide adequate service for its customers[,]” while ORS 757.035 allows the Commission to require Lumen “to take action that is necessary for the protection and safeguarding of the health and safety of its customers and the public.”¹⁷ As a final source of authority, Staff points to ORS 756.105 as granting the Commission authority to require Lumen to provide the Commission with information.

Finally, Staff argues the modified order is supported by the record, as evidence demonstrates, Jacksonville and Applegate area Lumen customers experienced consistent and serious service issues. Further, Staff argues that adequate service from Lumen is necessary for public health and safety, and that Lumen customers in the area lack alternative communications options at their homes.

C. Intervenors’ Arguments

CUB disagrees with Lumen’s arguments and asserts “the Commission acted well within its authority to issue the Order and its directives.”¹⁸ CUB argues that the modified order is lawful under the Commission’s various sources of broad authority and necessary to

¹⁶ *Id.* at 23.

¹⁷ Staff’s Opening Brief at 4-5 (Dec. 13, 2022).

¹⁸ CUB Pre-Hearing Brief at 10 (Dec. 13, 2022).

protect customers.¹⁹ CUB also asserted Lumen's reporting as required by the modified order was inadequate.²⁰

Patricia Weaver disagrees with Lumen's arguments and asserts the modified order is justified and needed to protect public health and safety.²¹ Ms. Weaver provided extensive factual information on service quality issues surrounding Lumen's telephone service in the area and the need for reliable voice service to protect her and her neighbors in the event of wildfire or medical emergency events.²²

III. DISCUSSION AND RESOLUTION

We reject Lumen's arguments and affirm the validity of Order No. 22-340, as modified by Order No. 22-422. We conclude it should remain in effect as described below.

A. The Burdens of Proof and Persuasion

As an initial matter, CUB and Lumen disagree as to who bears the burdens of proof and persuasion in this case. The question of who bears the burdens of proof and persuasion is a contested issue that did not receive full briefing from the parties. We note that the procedural posture of this case is somewhat unusual, in that it involves the question of whether a Commission order should remain in effect, in addition to arguments that the order itself should not have been imposed. We do not determine in this decision which party has the burden of proof in this proceeding. We find that, even if Staff were to bear the burden of proof and persuasion in this case, Staff would meet that burden. We find ample evidence on the record that justifies maintaining the order in effect. Accordingly, without making a determination as to who holds the burden, we have reviewed the record and issued our decision as though Staff bears the burden of proof.

B. The Modified Order Does Not Create or Alter Any Minimum Service Quality Standards.

In December 2021, we opened an investigation into the provision of telephone service in the Jacksonville and Applegate areas of Oregon under ORS 756.515.²³ ORS 756.515 defines our broad investigatory power whenever we believe any utility service to be "unsafe or inadequate." It allows us to "make such findings and orders as the commission deems justified or required by the results of such investigation."²⁴ We may make such findings and orders "without notice or hearing."²⁵

After a Special Public Meeting on August 25, 2022 in docket UM 2206 and a Regular Public Meeting on September 20, 2022 regarding docket UM 1908, we issued Order No.

¹⁹ *Id.* at 11-16; *see also* CUB Post-hearing Brief (Jan. 6, 2023).

²⁰ CUB Reply to Lumen's Bench Request Responses (Dec. 30, 2022).

²¹ Patricia Weaver Pre-Hearing Brief at 1 (Dec. 13, 2022).

²² *Id.* at 1-5; *see also* Patricia Weaver Post-Hearing Brief at 1-5 (Jan. 6, 2023).

²³ Order No. 21-470 (Dec. 20, 2021).

²⁴ ORS 756.515(4).

²⁵ *Id.*

22-340 that memorialized the decision made at the September 20, 2022 public meeting. Order No. 22-340 adopted Staff's September 14, 2022 recommendations with modifications, and was later modified, in part, by Order No. 22-422 on October 28, 2022. Both orders only applied to Lumen, were specific to only a portion of its service territory and were based on the specific findings of our investigation under ORS 756.515.

Lumen, however, argues that by issuing our modified order, we amended the minimum service quality standards that apply to all telecommunication utility providers in Oregon. We disagree. Oregon law requires that we "determine minimum service quality standards that relate to the provision of retail telecommunications services to ensure safe and adequate service."²⁶ These minimum service quality standards must apply to all telecommunications carriers, and we must, "by rule * * * review and revise the minimum service quality standards as necessary to ensure safe and adequate retail telecommunications services."²⁷ Past Commissions have complied with this legislative directive and promulgated rules establishing broadly-applicable minimum service quality standards for telecommunications utilities.²⁸ We periodically update these minimum service quality standards by rule.

The modified order, however, cannot be construed as an amendment to the minimum service quality standards. Our modified order is directed only at Lumen and was issued pursuant to our authority under ORS 756.515. Additionally, it is specific to a certain portion of the Lumen service territory, the Jacksonville area where the service issues identified by Staff and customers have occurred. In opening our investigation in docket UM 2206, we did not indicate we were taking action to enforce our minimum service quality standards, nor did we do so in issuing the modified order. Rather, we acted under ORS 756.515 to investigate unsafe or inadequate telecommunications service for one utility, in a specific geographic place, and issued an order justified by the results of that investigation.

We agree with Lumen that if we intended to modify the minimum service quality standards found in OAR 860-023-0055, we would need to comply with the rulemaking procedures of the Administrative Procedures Act.²⁹ If we were to do that, such changes would apply to all telecommunications utilities.³⁰ But contrary to Lumen's assertions, the modified order does not amend or create any new minimum service quality standards as we did not do so by rule, nor does the modified order impose any requirements on all telecommunications carriers. Because we did not amend or create any new minimum service quality standards in issuing the modified order, we also did not fail to consider the statutory criteria in ORS 759.450(3) that we would be required to consider if we were amending or creating minimum service quality standards.

²⁶ ORS 759.450(2).

²⁷ *Id.*

²⁸ OAR 860-023-0055.

²⁹ *See* ORS 183.335.

³⁰ *See* ORS 759.450(2).

The modified order was not calculated to enforce any minimum service quality standards. While enforcing minimum service quality standards may be necessary in the future, here, we only issued an order after conducting an investigation under ORS 756.515 to review and remedy a specific local issue. As such, the Commission did not fail to require Lumen to “submit a plan for improving performance to meet the” minimum service quality standards under ORS 759.450(5).³¹

Finally, we note that while we can enforce minimum service quality standards as a means of regulating telecommunications utilities, we must also be able to protect customers who are not receiving adequate service even if those customers represent a small portion of the total customer base. Under Lumen’s definition of adequate service, Lumen could ignore 1 percent of its customers suffering service quality issues indefinitely and the Commission would have no means to provide those customers with redress so long as the company was resolving at least 90 percent of its trouble reports within 48 hours. But, as CUB explains, it would be nonsensical to allow a telecommunications utility to ignore a small number of trouble reports indefinitely even if the utility were meeting the minimum service quality standards: “[t]o hold that the Commission does not have the power to protect customers from a utility’s action or nonaction, whether the problems stem from 90%, 75%, or even 5% of the number of resolved service quality issues would be inconsistent with the Commission’s role as a regulator.”³² While minimum service standards enforcement is one mechanism for the Commission to utilize its regulatory function, it is not the only manner in which the legislature has explicitly delegated us the authority to protect customers.

C. The Modified Order is Also Authorized by Other Sources of Commission Authority.

Although the modified order is clear that it was issued after a Commission investigation initiated under ORS 756.515, other statutes give the Commission authority to issue the modified order. For example, while not challenged by Lumen, the modified order’s requirement to provide regular reports to the Commission is authorized by ORS 756.105.

Additionally, ORS 756.040(1) requires that we “make use of the jurisdiction and powers of the office to protect [utility] customers, and the public generally, from unjust and unreasonable * * * practices and to obtain for them adequate service at fair and reasonable rates.” In doing so, the legislature directed that the “Commission is vested with power and jurisdiction to supervise and regulate every * * * telecommunications utility in [Oregon], and to do all things necessary and convenient in the exercise of such power and jurisdiction.”³³ As CUB explains, Oregon courts have recognized the multiple sources of the Commission’s broad regulatory power and that “the entire statutory scheme * * * must be considered in understanding [the Commission’s] authority.”³⁴

³¹ This is also described in the parties’ filings as a corrective action plan.

³² CUB Post-hearing Brief at 7-8 (Jan. 6, 2023).

³³ ORS 756.040(2).

³⁴ CUB Post-hearing Brief at 4-7 (Jan. 6, 2023).

ORS 757.035 provides another source of authority. There, the legislature directed that the Commission:

has power, after a hearing...to require by general or special orders embodying reasonable rules or regulations, every person...engaged in the management, operation, ownership, or control of...telephone...lines within this state...to construct, maintain and operate every line, plant, system, equipment or apparatus in such manner as to protect and safeguard the health and safety of all employees, customers and the public, and to this end...to require the performance of any other act which seems to the commission necessary or proper for the protection of the health or safety of all employees, customers or the public.³⁵

After conducting a hearing,³⁶ we concluded the modified order was necessary for the public health or safety. Aside from being justified under 756.515 as described above, the requirements imposed on Lumen by the modified order were necessary or proper for the protection of the health or safety of customers or the public under ORS 757.035(1).³⁷

Lumen asserts that these additional sources of authority ignore other, purportedly more specific legislative directives that constrain our ability to address unsafe or inadequate service conditions. Lumen is incorrect. No statute cited by Lumen states that the remedies provided are the exclusive remedy available to the Commission for service and public safety issues regarding the provision of telecommunications services. For example, Lumen points to ORS 759.450 as controlling here. While ORS 759.450 does indeed detail how universally minimum service quality standards, applicable to all service territories, are to be made, revised, and enforced, it in no way constrains the Commission's ability to enter orders specific to an individual telecommunications utility for specific and geographically isolated service quality issues. As such, Lumen's arguments to the contrary must be rejected.

D. The Modified Order Does Not Modify Lumen's Price Plan to Add New Service Quality Requirements.

Lumen asserts the modified order "should be considered modifications of the Price Plan even if the [modified] Order was issued under ORS 756.515."³⁸ Lumen assumes this is true because Staff's September 14, 2022 recommendations described the "Issue" as being "[w]hether further adjustments to or termination [of] Lumen's Price Plan is required by the public interest according to the criteria set forth in ORS 759.255 due to issues that Lumen customers and staff have reported in Docket No. 2206 * * *."³⁹

³⁵ ORS 757.035(1).

³⁶ The September 20, 2022 Public Meeting constituted a hearing meeting the statutory requirement. See *G.A.S.P. v. Env't Quality Comm'n*, 198 Or App 182, 189, 108 P3d 95, 99 (2005).

³⁷ Order No. 22-422 at 3 (Oct. 28, 2022).

³⁸ Lumen's Post-hearing Brief at 13 (Jan. 6, 2023).

³⁹ Order No. 22-340, Appendix A at 1.

Lumen's assumption is unfounded. While the modified order does extend Lumen's Price Plan by nine months, the requirements imposed on Lumen did not modify the Price Plan. Rather, as discussed above, the modified order was issued under ORS 756.515 and authorized by other sources of Commission authority and was meant to "address service quality issues experienced by customers in Jacksonville in the near-term" until the Price Plan investigation is complete. Indeed, the modified order explicitly opened an investigation into Lumen's Price Plan to determine whether it is in the public interest, and if not, what modifications to the Price Plan were warranted.⁴⁰ That investigation continues, with an anticipated hearing scheduled for April 2023.⁴¹ Any modifications to Lumen's Price Plan will be the result of that investigation.

E. Lumen's Tariffs Are Not the Exclusive Remedies Available to the Commission for Service Quality Issues.

While Lumen is correct that its PUC Oregon No. 33 tariff details monetary credits for customers experiencing service outages, the company is incorrect that the tariff provides the exclusive remedy to customers or the Commission for service quality issues. As explained in detail above, the Commission has broad authority to require telecommunication utilities to act in the face of service quality issues, especially when the issues jeopardize public health or safety. Lumen points to no portion of its tariff stating the remedies found in the tariff are the exclusive remedy for service quality issues or service quality issues jeopardizing public health or safety.

Lumen argues the "filed-rate doctrine, as codified in ORS 759.205 for telecommunications utilities not only requires a utility to charge its filed rates; it also prohibits a commission or court from ordering a remedy that is inconsistent with a utility's tariff."⁴² ORS 759.205 in no way restricts the Commission's authority to remedy ongoing service quality issues or safety issues. Its language does not constrain the Commission's ability to issue orders or require action on the part of telecommunications utilities. Additionally, we took no action in our orders that is inconsistent with Lumen's tariffs. We reject Lumen's argument.

F. The Modified Order is Justified.

In reviewing the modified order, we must ascertain whether "substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person" to conclude that the modified order is justified and should remain in effect.⁴³ The evidentiary record here confirms that the modified order should remain in place until the Lumen Price Plan investigation is complete. The record confirms that service issues in the Jacksonville and Applegate areas have been occurring for a long time, and they continue to pose serious threats to public health and safety.

⁴⁰*Id.*; see also Order No. 22-422 at 9 (Oct. 28, 2022) ("The Administrative Hearings Division is directed to hold a prehearing conference to set a schedule in this docket for investigating Lumen's price plan.").

⁴¹ Prehearing Conference Memorandum, UM 1908/UM 2206 (Dec. 22, 2022).

⁴² Lumen's Post-hearing Brief at 18 (Jan. 6, 2023).

⁴³ ORS 183.484(5)(c).

In Order No. 22-422, we explained “that the Little Applegate area has experienced consistent, serious service issues; that adequate service is necessary for public health and safety in this area; and that adequate service is necessary for residents of this area to access essential emergency services, including medical services.”⁴⁴ That order described the significant service issues affecting public health and safety, including: outages ranging from four to eight days; potentially being unable to reach emergency services during medical emergencies; the need to drive twelve to twenty five minutes to get cellular phone service; Lumen “clearing” repair tickets despite customers continuing to be without voice service; rapidly spreading wildfires nearby during periods without phone service; statements from Lumen confirming that much of the company’s equipment in the area is at the end of its life; and customer difficulties in reporting service outages.⁴⁵ Adding to the severity of these issues was that many Lumen customers in the area lacked other internet or cellular service options at their homes, and relied exclusively on Lumen’s phone service to reach emergency services when necessary.⁴⁶

1. Staff’s Investigation of Service Issues and Evidence from Lumen Supports the Modified Order.

Staff explained that Lumen’s customers have experienced service quality issues since at least 2014.⁴⁷ In 2017, the Commission “placed Lumen on an ORS 759.450(5) performance plan” to address service quality issues in the area.⁴⁸ Although the performance plan ended, the efforts to improve service in the area did not provide “a durable solution to the issues present in the Jacksonville exchange.”⁴⁹

In November 2021, the Commission received a complaint letter from two Lumen customers in the area explaining that “approximately 60-80 customers were impacted with eleven outages that range[d] from four to eight days before restoration was complete” and explained “serious safety and reliability issues as a result of Lumen’s service.”⁵⁰ The letter outlined concerns with not having “reliable 24/7 access to 911,” no alternatives due to no cell phone service, the unavailability of “internet/broadband strong enough to support cell service,” poor bandwidth with satellite phone providers, and an incident where a Lumen customer had a life threatening emergency and was able to obtain emergency service via their phone service but would have been unable to do so if the emergency had happened the next day due to an outage.⁵¹ As a result of this letter, the Commission opened “an investigation into Lumen’s provision of telephone service in the area of Jacksonville, Oregon and surrounding areas based on historical and ongoing safety and reliability issues experienced by customers.”⁵²

⁴⁴ Order No. 22-422 at 3 (Oct. 28, 2022).

⁴⁵ *Id.* at 3-8.

⁴⁶ *Id.* at 3.

⁴⁷ Staff/100, Bartholomew/4.

⁴⁸ Staff/100, Bartholomew/4-5.

⁴⁹ Staff/100, Bartholomew/6.

⁵⁰ Staff/100, Bartholomew/3 (citing Staff/105, Bartholomew/98-111).

⁵¹ Staff/105, Bartholomew/98-100.

⁵² Staff/100, Bartholomew/3.

During the investigation, Staff attempted to get a better understanding of the reasons behind the service quality issues and work Lumen had completed to rectify service quality issues.⁵³ Staff believed Lumen did not provide sufficient information in response to requests for information.⁵⁴ Despite this, Staff discovered that Lumen had taken two actions to resolve service quality issues in the area between 2014 and the investigation that began in 2021: “(1) hardening of cable plant inside certain pedestals, and (2) the replacement of backup batteries in the remote terminal.”⁵⁵ Staff did not believe these actions were sufficient, as Lumen only “hardened the cable plant in three separate pedestals” out of over sixty pedestals total.⁵⁶ According to Staff, this meant “customers [would] likely continue to experience outages until the Company harden[ed] all of its pedestals.”⁵⁷ Staff was further concerned that at the time, Lumen did not have backup batteries.⁵⁸ As a result of these concerns, Staff provided recommendations to Lumen with steps the company could take to “bring the cable plant to ‘like new’ conditions.”⁵⁹ Lumen did not follow Staff’s suggestions.⁶⁰

Joseph Bartholomew, a Senior Telecommunication Analyst with the Oregon Public Utility Commission with more than 17 years’ experience in the telecommunications industry, personally inspected Lumen’s facilities in the area.⁶¹ Mr. Bartholomew provided extensive testimony on his personal inspection of Lumen’s system in the Jacksonville and Applegate areas.⁶² During the inspection, Mr. Bartholomew identified bonding and grounding repairs that needed to occur.⁶³ “I noticed a lot of grounding issues—well, I noticed a lot of the cables weren’t grounded in the pedestals. I noticed one pedestal didn’t even have a ground bar at all, which I brought it to their attention.”⁶⁴

Mr. Bartholomew inspected thirty or forty pedestals, and reiterated the importance of hardening them, as “the cable’s really brittle to where if you touch it, it might break, or * * * it might cause a short or it might cause one-person outage, or when you fix one person, you might cause another outage because the cable’s so brittle.”⁶⁵ As a result of hardening, “the cable becomes more like new condition because it hasn’t oxidized, it hasn’t been introduced to the elements, it’s underground three feet * * * [and] it induces reliability on that portion of the cable plant.”⁶⁶ Mr. Bartholomew also explained that one of the issues with Lumen’s system “could be a lot of their repeaters” because “[y]ou

⁵³ Staff/100, Bartholomew/8-9.

⁵⁴ Staff/100, Bartholomew/7-8.

⁵⁵ Staff/100, Bartholomew/8.

⁵⁶ Staff/100, Bartholomew/8-9.

⁵⁷ Staff/100, Bartholomew/9.

⁵⁸ *Id.*

⁵⁹ Staff/100, Bartholomew/8-10; Staff/105, Bartholomew/111.

⁶⁰ Staff/100, Bartholomew/10.

⁶¹ Staff/100, Bartholomew/7; Staff/104, Bartholomew/9; Staff/101, Bartholomew/1-3; Lumen/100, Gose 10.

⁶² See Transcript of December 21, 2022 Hearing, Joseph Bartholomew at 30-33, 37-39.

⁶³ Transcript of December 21, 2022 Hearing, Joseph Bartholomew at 17 ln. 21-23, 37 ln 24-25, 38 ln 1-3.

⁶⁴ Transcript of December 21, 2022 Hearing, Joseph Bartholomew at 37 ln 24-25, 38 ln 1-3.

⁶⁵ Transcript of December 21, 2022 Hearing, Joseph Bartholomew at 31 ln 9-13.

⁶⁶ Transcript of December 21, 2022 Hearing, Joseph Bartholomew at 31 ln 18-25.

really just have to replace if they go bad because they don't manufacture them anymore."⁶⁷

As a result of Mr. Bartholomew's inspection and the continued service quality investigation, which included continued customer complaints, Staff concluded it "continues to have concerns about service quality issues in Jacksonville and surrounding areas due to the amount of customer complaints the Commission's Consumer Services Group continues to receive."⁶⁸ These concerns were based on Staff's conclusions that "past performance plans did not rectify ongoing issues with system age and quality; outages were too frequent; and Lumen was not addressing problems in a timely manner." Staff further believed "Lumen was not taking appropriate steps to ensure near term compliance with service quality standards" and that "[s]ervice quality in the Jacksonville area threatened public safety."⁶⁹

Regarding public safety, Staff explained that because "Jacksonville is a very rural city, many customers do not have internet or cellular service as an option at their homes, and as a result, rely on their landlines for communications, which include those of a critical nature."⁷⁰ This dynamic leads to telephone outages "present[ing] a very dangerous circumstance if there were to be an emergency of any kind."⁷¹

Ultimately, Staff concluded "Commission action was required to ensure public safety, secure reliable phone service for customers, and guarantee that issues are addressed in a timely manner."⁷²

Lumen admits there have been service quality issues in the area, and explained there were four primary causes, including: "certain sections of older vintage copper cables with internal paper insulation [being] prone to periodically become wet[;]" batteries nearing the end of their useful life; remote terminals being more than forty years old; the cable plant "required occasional maintenance that impacted service."⁷³ Lumen explains it began work in August 2021 to rectify the service quality issues by replacing section of cable, fixing faulty work performed by a third-party contractor; installing new permanent batteries in May 2022; "fine-tun[ing] the alarm-generation functions of the remote terminals[;]" and acquiring spare parts for use in the event of future failures.⁷⁴ In September 2022, Lumen inspected and corrected the bonding, grounding, and connections of the cable plant; upgraded software; and replaced a central office switch module.⁷⁵

⁶⁷ Transcript of December 21, 2022 Hearing, Joseph Bartholomew at 32 ln 8, 11-13.

⁶⁸ Staff/100, Bartholomew/18.

⁶⁹ Staff/100, Bartholomew/18.

⁷⁰ Staff/100, Bartholomew/6.

⁷¹ Staff/100, Bartholomew/6.

⁷² Staff/100, Bartholomew/19.

⁷³ Lumen/100, Gose/7-8.

⁷⁴ Lumen/100, Gose/8-9.

⁷⁵ Lumen/100, Gose/9-10.

Lumen asserts these efforts⁷⁶ “have resolved all service issues * * *.”⁷⁷ While Lumen notes that service calls in the area have been declining in frequency since September 2022, calls reporting service outages continued to be received by Lumen through the end of the call data submitted in its testimony.⁷⁸ Lumen asserts “[e]ach and every single ticket generated for voice grade service repair over the dedicated toll-free line has achieved a service resolution within 48 hours.”⁷⁹

We conclude that Mr. Bartholomew’s personal inspection of Lumen’s facilities, expertise, conclusions, and recommendations provides substantial evidence to justify the modified order and to have it remain in effect as described below. However, additional support for this conclusion exists in the extensive public comments and complaints the Commission has received over the course of its investigation.⁸⁰

2. *Public Safety and Service Issue Evidence Justify the Modified Order and its Extension.*

Order No. 22-422 provided several examples of the complaints and comments the Commission received concerning Lumen’s service in the Jacksonville and Applegate areas.⁸¹ Those comments provided the basis for our conclusion that the modified order was justified and necessary for the public health and safety. Nothing in Lumen’s testimony changes the validity of those complaints and comments and Lumen has not provided any evidence to rebut our conclusion that the modified order is necessary for the public health and safety.

Staff’s testimony includes the complaints and comments referenced in Order No. 22-422, as well as additional complaints and comments received since Order No. 22-422 was issued.⁸² Staff also provided an analysis of the complaints and comments it received.⁸³ Staff explains Lumen customers in the area “are reporting frequent and prolonged outages, dropped calls, and other service quality problems including busy signals and static on the lines.”⁸⁴ Further, Lumen “[c]ustomers reported outages with no phone service from one to 21 days” with intermittent outages also being common.⁸⁵ Staff explained another frequent comment was “difficulty reporting outages without phone service, Lumen representative[s] reporting no outages in the area, prolonged wait times, and long talk or chat times before a repair ticket is issued.”⁸⁶

⁷⁶ We note that Lumen more fully describes its maintenance and repair efforts in the testimony of Peter Gose. *See* Lumen/100, Gose/7-12.

⁷⁷ Lumen/100, Gose/16.

⁷⁸ Lumen/100, Gose/14.

⁷⁹ Lumen/100, Gose/15.

⁸⁰ We note that Staff stated they did not find the complaints received regarding Lumen’s service to be unreliable. *See* Transcript of December 21, 2022 Hearing, Joseph Bartholomew at 39 ln 12-25, 40 ln 1-2; Melissa Nottingham at 65 ln 2-3.

⁸¹ Order No. 22-422 at 3-8.

⁸² Staff/202, Nottingham 1-177; Staff/203, Nottingham

⁸³ Staff/200, Nottingham/4-15.

⁸⁴ Staff/200, Nottingham/7.

⁸⁵ Staff/200, Nottingham/14.

⁸⁶ Staff/200, Nottingham/14.

In addition to the above, Staff explained that “Lumen has been assessed 161 at-faults in 2022.”⁸⁷ This means the company was “not in compliance with the Oregon Administrative Rules, the company’s filed tariffs, or demonstrates poor customer service” one hundred sixty-one times in less than one year.⁸⁸

Staff concluded its analysis by explaining the significant public safety threats these complaints and comments represent for Lumen customers in the Jacksonville and Applegate areas because “Jacksonville is in a high fire risk area and reliance on telephone service to both receive evacuation orders or notify emergency responders of a fire is crucial.”⁸⁹ Additionally, “[r]ural areas may be subject to longer response time for medical emergencies and attempting to report an emergency with no phone service could add valuable time for medical services to reach a person in crisis.”⁹⁰ Lumen agrees that landline voice service can be critical in an emergency as it can help emergency personnel know exactly where an emergency is occurring, and at the hearing, Lumen’s witness acknowledged that the company advertises this aspect of landline service to its customers.⁹¹ Lumen also is aware that some of its customers rely on its voice services for emergencies, including 911 access.⁹²

Further, Lumen’s testimony at the December 21, 2022 hearing provided no assurances that it had indeed resolved all service quality issues in the area. In response to Commissioner questions, Lumen’s representative, Peter Gose, admitted he conducted “no analysis of service tickets or call center logs” nor asked for any information from Lumen’s call center in reaching his conclusion that service issues in the area had been resolved.⁹³ Mr. Gose also explained that his statement in his written testimony that all trouble tickets specific to the Little Applegate Road area received during a 49-day period in fall 2022 had been closed was based on conversations with Lumen’s director for regional field operations and not on personal information⁹⁴ regarding the trouble tickets, the underlying problems, and how those specific trouble tickets were actually resolved.⁹⁵

When asked to explain the disconnect between Lumen’s statement that all trouble tickets had been closed within 48 hours and that the Commission had received complaints from Lumen customers that trouble tickets were closed without the issues being resolved, Mr. Gose reiterated that he had relied on statements from the director for regional field operations.⁹⁶ We asked:

⁸⁷ Staff/200, Nottingham/15.

⁸⁸ Staff/200, Nottingham/5-6.

⁸⁹ Staff/201, Nottingham/15.

⁹⁰ *Id.*

⁹¹ Transcript of December 21, 2022 Hearing, Peter Gose at 120 ln 3-16; *Id.* at 119 ln 20-24.2

⁹² Transcript of December 21, 2022 Hearing, Peter Gose at 121 ln 24-25, 122 ln 1-2.

⁹³ Transcript of December 21, 2022 Hearing, Peter Gose at 152 ln 1-4.

⁹⁴ We note that Mr. Gose’s statements regarding what he heard from Lumen’s director of regional field operations appear to be the same type of hearsay that Lumen objected to in this matter. We afford this type of information the appropriate weight as we articulated in the Chief Administrative Law Judge’s order overruling Lumen’s hearsay objections. *See* Ruling at 1-2 (Jan. 4, 2023).

⁹⁵ Transcript of December 21, 2022 Hearing, Peter Gose at 152 ln 5-15.

⁹⁶ Transcript of December 21, 2022 Hearing, Peter Gose at 153 ln 6-10.

You have described relying on reports from the field director that tickets are resolved within 48 hours, 100 percent of tickets. We have in the record for this fall customers complaining to Consumer Services that tickets are being closed without the issue resolved. Have you taken any steps to understand whether tickets are being closed within 48 hours without the issue being resolved?⁹⁷

Mr. Gose replied: “I have not.”⁹⁸

At the hearing, the Commission tried to obtain additional information on what Lumen had done—aside from looking at the number of purportedly resolved trouble tickets in its internal reports—to ensure that service issues in the area had been resolved:

[H]ave you sought to find any additional problems in those remote terminals—for example, more analysis—or are you relying only on calls to the 1-800 number to tell us that the problem’s resolved? Have you done any additional analysis, asked call centers for logs, anything to identify other calls around those remote terminals to formulate your opinion about where our current status is?⁹⁹

Mr. Gose responded: “I can’t, nothing comes to mind at this juncture.”¹⁰⁰

Lumen has not provided credible evidence that customer trouble tickets in the area have been resolved within 48 hours. While the company asserts it has, it was not able to respond to questions about disconnects between information Lumen provided and Staff provided, nor could Lumen’s representative explain what actions were taken to resolve trouble tickets and whether service problems were actually resolved. Conversely, Staff presented evidence that customers were experiencing continued service issues with their telephone service and that at least some trouble tickets were not resolved within 48 hours.¹⁰¹ Lumen’s proffered evidence failed to rebut those assertions.

We conclude that Lumen’s customers in these areas continue to suffer service quality issues and that the record demonstrates why the modified order must continue in effect.

Even if Lumen is correct that it has resolved all service quality issues in the area, we conclude that leaving the modified order in place ensures Lumen will continue to maintain phone service to customers in this area during the pendency of the orders. Absent the provisions of the orders, Lumen customers were suffering from frequent and serious service quality issues and was not completing repairs in a timely manner. Even if

⁹⁷ Transcript of December 21, 2022 Hearing, Peter Gose at 162 ln 23-25, 163 ln 1-5.

⁹⁸ Transcript of December 21, 2022 Hearing, Peter Gose at 163 ln 6.

⁹⁹ Transcript of December 21, 2022 Hearing, Peter Gose at 160 ln 24-25, 161 ln 1-6.

¹⁰⁰ Transcript of December 21, 2022 Hearing, Peter Gose at 161 ln 7-8.

¹⁰¹ See Staff/200, Nottingham/9-10, 14; Transcript of December 21, 2022 Hearing, Melissa Nottingham at 70 ln 5-25, 71 ln 1-5; Transcript of December 21, 2022 Hearing, Peter Gose at 119 ln 5-15.

all repair tickers are now being resolved within 48 hours, we conclude this is at least in part because of the modified order and justifies it remaining in effect until such time as we determine appropriate.

3. *Lumen Must Meet its Carrier of Last Resort Obligations, and Alternatives Do Not Alleviate Lumen of This Duty.*

We note that Lumen stated it “requested what they call a RFS Ready for Service date of late second quarter, early third quarter of 2023” for fiber to home that would provide its customers in the area with “symmetric 940 MB service” with “reliability * * * vastly superior to what it is today.”¹⁰² Lumen agrees “that fiber is going to be the ultimate fix to the issues in the Jacksonville area” and we would hope that service issues in the area will be eliminated as a result and the need for further action by the Commission unnecessary.¹⁰³ Notably, when given the opportunity at hearing, Lumen did not commit to pursue for the Jacksonville area what they characterized as “the ultimate fix” to the service problems. We note that whether fiber is the ultimate fix to the problems in the Applegate area or other actions by the company are required, it is the provision of voice service to customers that is required under state law and our rules, whatever method the company determines to use in order to do that.

The company argues that its customers in the area have alternative voice service options, and therefore there is no public safety need justifying the modified order. We disagree. Lumen is a carrier of last resort, and it is not relevant to our analysis here whether alternative voice services, such as satellite phones, exist or are available to all customers in the area—which the record demonstrates they are not. The company is required to provide safe and reliable service to all its customers.¹⁰⁴ This is particularly important when documented public health and safety issues exist for residents who are dependent on Lumen's voice services.

Importantly, Lumen has elected to provide voice service under ORS 759.255, which requires the Commission to set prices without regard to the profitability of providing such service or the return on investment for the utility. This is different from “cost of service” rate regulation, the traditional regulatory paradigm under which we set rates after evaluating the actual cost of providing service and the company's opportunity to earn a return.¹⁰⁵ Having elected regulation under ORS 759.255, Lumen is obligated to manage its own costs and revenues as necessary to provide safe and reliable service to all its customers in an adequate and non-discriminatory manner. We note that Lumen has

¹⁰² Staff/100, Bartholomew/17; *see also* Transcript of December 21, 2022 Hearing, Peter Gose at 115-117, 124 ln 22-25, 125 ln 1-8, 162 ln 23-25, 163 ln 1-6.

¹⁰³ Transcript of December 21, 2022 Hearing, Peter Gose at 124 ln 22-25, 125 ln 1-2.

¹⁰⁴ *See* ORS 759.506; *see also* Staff/105, Bartholomew/44-96 (PUC Carrier of Last Resort Report to the 2020 Legislature).

¹⁰⁵ *See* ORS 759.175 to ORS 759.185; as well as options under ORS 759.195 or 759.410. The later is known as “Price Cap” regulation and is an additional alternative available to Lumen aside from “cost of service” regulation.

access to state subsidies explicitly designed to support the provision of service in high-cost areas through the Oregon Universal Service Fund (OUSF).¹⁰⁶

At the hearing, Lumen was asked about Lumen's plans in Oregon regarding its carrier of last resort status and Lumen's representative explicitly stated the company had no plans to seek to be relieved of its obligations.¹⁰⁷ Importantly, Lumen also admits that Lumen's obligations to provide service to customers do not "change if a customer has other opportunities for communication."¹⁰⁸

Even if the availability of alternative service options were relevant, Lumen's arguments are not persuasive and fail to rebut the evidence in the record. Lumen's conclusion that alternative voice service options exist is based on its "observation" that "[t]here are a number of competitors present within the 246 square miles of the wire center" including four wire line providers, four fixed wireless providers, three cellular providers, and three satellite providers.¹⁰⁹ Lumen asserts that the data it presented "suggests that * * * satellite can reach all of th[e] households" in the area.¹¹⁰

This data, however, does not establish that options exist for the customers in the specific geographic area at issue here and was persuasively rebutted by direct testimony. The record is replete with testimony and comments articulating the lack of options or problems with existing options. For example, Staff explained that "many customers do not have internet or cellular service as an option at their homes, and as a result, rely on their landlines for communications, which include those of a critical nature."¹¹¹ As a result, there were "no other viable communication alternative[s]" in the area."¹¹² Lumen customers stated that given their frustrations with Lumen service, they "would sign up" if alternative service was available to them.¹¹³ Additionally, satellite coverage may not work for all customers due to high cost, trees or landscapes blocking sight lines, long waitlists, and speeds that decrease over time and do not allow for voice calls at all times.¹¹⁴

At the December 21, 2022 hearing, Ms. Weaver stated she had personally used several of the alternative satellite options and while "you get a decent signal for a while," service "degrades to about one megabyte per second other than in the middle of the night when nobody's using it because they oversubscribe with their fixed satellites."¹¹⁵ Ms. Weaver elaborated that "all the other satellite providers are not consistently robust enough to reliably be able to do voice over internet cell calls" and that her neighborhood has "no

¹⁰⁶ See ORS 759.425; see also Staff/105, Bartholomew/57-59.

¹⁰⁷ Transcript of December 21, 2022 Hearing, Peter Gose at 145 ln 22-25, 146 ln 1-10.

¹⁰⁸ Transcript of December 21, 2022 Hearing, Peter Gose at 148 ln 5-9.

¹⁰⁹ Lumen/100, Gose/17.

¹¹⁰ Transcript of December 21, 2022 Hearing, Peter Gose at 166 ln 9-10.

¹¹¹ Staff/100, Bartholomew/6.

¹¹² Staff/100, Bartholomew/13.

¹¹³ Staff/104, Bartholomew/20.

¹¹⁴ Transcript of December 21, 2022 Hearing, Priscilla Weaver at 95-97.

¹¹⁵ Transcript of December 21, 2022 Hearing, Priscilla Weaver at 77 ln 10-17.

cell phone service at all. We have no towers. We cannot get signals to the tower.”¹¹⁶ Customers state they cannot access these services, and Lumen has failed to present any evidence that they can. Finally, Lumen concedes that some of its customers in the area do not have access to any alternative voice services.¹¹⁷ Lumen’s voice customers do not have adequate or reliable alternatives for voice service in the area even if those alternatives served to relieve Lumen of its carrier of last resort obligations, which they do not.

G. Lumen’s Reporting is Inadequate.

In addition to setting up a dedicated customer support line, Order No. 22-340 required Lumen to:

track and retain information on all tickets generated through this customer support line. The information to be tracked must include but is 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 service issue, actions taken to resolve the service issue, and information on the results. Dates and times for all of the foregoing information must be logged. This information must be tracked until the conclusion of the investigation.

Every two weeks until December 31, 2022, Lumen must file in docket UM 2206 the above information with customer personal identifying information redacted. A confidential version of the same information, with no redaction, must be filed under a general protective order which will be established in the docket. Filings should summarize how tickets are routed and prioritized.¹¹⁸

Despite this requirement, Lumen failed to file any such reports in this docket until December 16, 2022, and even then, only after receiving a bench request and a memorandum from the Administrative Hearings Division asking that it do so.¹¹⁹ As described above and by the parties, Lumen’s reports have not provided the Commission with the requested information, and they do not assure us that trouble tickets are actually being resolved before being closed.¹²⁰ As such, we use our authority under ORS 756.105 to continue this reporting requirement. We expect that by April 3, 2023, Lumen will file a report covering any calls to the dedicated customer support line from January 1, 2023, through March 31, 2023, and continue to file such reports every two weeks until we determine this reporting is no longer necessary.

¹¹⁶ Transcript of December 21, 2022 Hearing, Priscilla Weaver at 82-84.

¹¹⁷ Transcript of December 21, 2022 Hearing, Peter Gose at 148 ln 1-4.

¹¹⁸ Order No. 22-340 at 1 (Sept. 23, 2022).

¹¹⁹ See Bench Request (Dec. 14, 2022); Memorandum (Dec. 16, 2022).

¹²⁰ See CUB Post-Hearing Brief at 7-8 (Jan. 6, 2023); Staff Post-Hearing Brief at 2-3 (Jan. 6, 2023).

Reports filed in this matter in December 2022 were insufficient.¹²¹ We expect future reports will also describe the specific service issue reported, what the cause of the service issue was, the specific steps taken to resolve the service issue, the date the service issue was resolved and information on how tickets are routed and prioritized.¹²²

IV. CONCLUSION

We continue to be troubled by Lumen's failure to provide its customers with safe and reliable service in an adequate and non-discriminatory manner in the Jacksonville Area. We are not convinced that service quality issues have been resolved in the area and Lumen's failure to comply with our directives does not instill confidence in its ability to do so. Lumen has special status as a carrier of last resort and as such it must provide adequate and reliable service to all customers within its service territory regardless of any inclination it has to approach the topic as a cost-benefit analysis. It has not accomplished this service requirement for its customers in the Jacksonville and Applegate areas. This is particularly troubling given the availability of the OUSF to ensure access to basic telephone services and to encourage broadband service availability for Oregonians in areas where providing such service is expensive or difficult.¹²³

We conclude the modified order should remain in effect and remains justified to protect public safety of customers relying on Lumen to access emergency services and critical information, such as that relating to wildfires and evacuation orders. Lumen must resume submitting reports regarding customer complaints and service quality issues in the Jacksonville and Applegate areas as required by the modified order.

We intend to continue monitoring service quality issues in the Jacksonville and Applegate areas of Oregon both through the modified order's provisions, our continuation of the reporting requirement, and the PUC's receipt of customer complaints. Although we have not levied any fines against Lumen under the modified order as of now, we may do so if Lumen fails to comply with it.

We will next consider the ongoing obligations of this order through the ongoing price plan investigation, and also reserve the right to revisit it on our own accord in the meantime.

V. ORDER

IT IS ORDERED that:

1. Order No. 22-340, as modified by Order No. 22-422, continues to be necessary for the public health or safety.

¹²¹ See Staff/300.

¹²² By date the service issue was resolved, we do not necessarily mean the date a technician was dispatched.

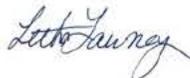
¹²³ See ORS 759.425; see also Staff/105, Bartholomew/57-59.

2. Order No. 22-340, as modified by Order No. 22-422, remains in effect. Lumen must resume filing the reports required by Order No. 22-340 in consolidated dockets UM 1908/UM 2206 until we issue an order in the UM 1908/UM 2206 Lumen Price Plan investigation. Lumen must file reports covering January 1, 2023, through March 31, 2023, by April 3, 2023, and shall file updated reports every two weeks until we eliminate this obligation in a subsequent order.

Made, entered, and effective Mar 21 2023.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Mark R. Thompson
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.