Before the
Mt. Hood Cable Regulatory Commission
111 SW Columbia, Suite 600
Portland, OR 97201

Recommend Extension of Qwest Broadband Services, Inc Cable Franchise with conditions ) Resolution No. 2013-06 ) Adopted by the Commission: ) October 21, 2013

Section 1. Findings.

1.1 The Mt. Hood Cable Regulatory Commission ("MHCRC" or "Commission") was created by an Intergovernmental Agreement dated December 24, 1992 (the "IGA") to carry out cable regulation and administration on behalf of Multnomah County and the cities of Gresham, Fairview, Portland, Troutdale, and Wood Village (the "Jurisdictions"). Among other responsibilities assigned to the Commission under the IGA, the Commission acts in an advisory capacity to the Jurisdictions in connection with renewal or extension of any cable franchise of the Jurisdictions.

1.2 Qwest Broadband Services, Inc cable franchise was approved on the recommendation of the MHCRC by action of the Portland City Council on November 14, 2008 and effective 60 days afterward. Sec. 1.4 of Ordinance No. 181414 (the "cable franchise").

1.3 The cable franchise was transferred to CenturyLink, Inc. on the recommendation of the MHCRC by action of the Portland City Council (Ord. No. 184206, November 3, 2010).

1.4 The cable franchise by its original term expires December 31, 2013.

1.5 At the March 21, 2011 meeting the Commission in Resolution 2011-01 acknowledged CenturyLink's formal request to commence renewal proceedings under the Cable Act and directed staff to develop the necessary processes and procedures to enable the MHCRC to carry out its responsibilities under the federally mandated renewal process and timeline.

1.6 Staff made good progress in negotiations until February 2013 when CenturyLink requested that, based upon internal business decisions, the franchise negotiations be suspended until September, 2013.

1.7 CenturyLink representatives have requested an extension of the term of the cable franchise to allow the company additional time to evaluate business opportunities in offering cable services.

1.8 The public interest will be served by extending the terms of the Franchises to December 31, 2015.

Now, therefore, the Commission resolves:

Section 2.
2.1 The Commission recommends that the Portland City Council approve by ordinance an extension of the current terms of the Qwest Broadband Services, Inc Franchise to December 31, 2015 subject to certain conditions.

2.2 In furtherance of this recommendation, the Commission recommends that the Jurisdictions approve an ordinance substantially similar to that attached as Exhibit A hereto.

ADOPTED BY THE COMMISSION on October 21, 2013.

Reviewed by:

Sue Diciple, Chair

Ben Walters, Legal Counsel

Attachment:

*Exhibit A Recommended form of extension ordinance.*
* Extend term of Qwest Broadband Services, Inc. cable franchise (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The Mt. Hood Cable Regulatory Commission ("MHCRC" or "Commission") was created by an Intergovernmental Agreement dated December 24, 1992 (the "IGA") to carry out cable regulation and administration on behalf of Multnomah County and the cities of Gresham, Fairview, Portland, Troutdale, and Wood Village (the "Jurisdictions"). Among other responsibilities assigned to the Commission under the IGA, the Commission acts in an advisory capacity to the Jurisdictions in connection with renewal or extension of any cable franchise of the Jurisdictions.

2. The cable franchise granted by the City of Portland to Qwest Broadband Services, Inc., was passed by the Council on November 14, 2008 and effective 60 days afterward. Sec. 1.4 of Ordinance No. 181414 (the "cable franchise").

3. On November 3, 2010, the Council passed Ordinance No. 184206, consenting to a change in control of the Qwest Broadband Services, Inc.'s parent, Qwest Communications International, Inc. to CenturyLink, Inc. Ordinance No. 184206. Qwest Broadband Services, Inc., as a subsidiary of Qwest Communications International, Inc. and CenturyLink, Inc. filed an acceptance of the cable franchise transfer ordinance.

4. The cable franchise by its original term expires on December 31, 2013. Ordinance No. 181414, Sec. 1.2.

5. The MHCRC, on behalf of the City of Portland, has been negotiating with representatives of Qwest Broadband Services, Inc., operating under the assumed business name (abn) of CenturyLink, regarding terms of renewal of the cable franchise. All parties acknowledge that cable franchise renewals are subject to the provisions of Section 626 of the Cable Communications Policy Act of 1984, 47 U.S.C. §546.

6. In February, 2013, Qwest Broadband Services requested that, based upon internal business decisions, the franchise negotiations be suspended until September, 2013. Representatives from Qwest Broadband Services have recently requested an extension of the term of the cable franchise to allow the company additional time to evaluate business opportunities in offering cable services.

7. At a meeting held on October 21, 2013, the MHCRC considered this request, and adopted a recommendation that the Council grant an additional extension of the term of the Qwest Broadband Services cable franchise for an additional two years until December 31, 2015.

8. The parties have expended significant time and resources in negotiating the renewal of the cable franchise, in accordance with the informal franchise renewal process. In an effort to continue the progress the parties have made to date during the negotiation process, when renewal negotiations continue, the parties will begin with the last draft of
the franchise agreement exchanged between the parties, attached to this ordinance as Exhibit A. The parties acknowledge that they have not reached final agreement on the terms in Exhibit A and until the parties have reached mutual agreement on all terms, no party shall be bound by the terms in the draft agreement.

9. The public interest will be served by granting an additional extension of the term of the Qwest Broadband Services cable franchise for an additional two years to allow Qwest Broadband Services, Inc. additional time within which to determine the business case for this investment.

10. Representatives from Qwest Broadband Services, Inc. have indicated that the company has no objection to extending the term of the cable franchise to December 31, 2015.

NOW, THEREFORE, the Council directs:

(a) Subject to the conditions set out below and in the acceptance form attached as Exhibit B to this Ordinance, the Portland City Council approves an extension to the term of the cable franchise granted by the City of Portland to Qwest Broadband Services, Inc., through Ordinance No. 181414 as passed by the City Council on November 14, 2007 (the “cable franchise”).

(b) Section 1.2 of the cable franchise is amended to delete the date “December 31, 2013” and substitute the date “December 31, 2015”. All other terms and provisions of the cable franchise, together with all related documents and agreements pertaining thereto, shall continue in effect without modification.

(c) The parties will re-engage in their informal franchise negotiations by March 31, 2014. The parties agree to begin these negotiations in good faith based upon the progress made to date, as indicated in Exhibit A, attached to this ordinance and discussed in Paragraph 8 above. The parties shall confer and agree upon a schedule of regular negotiation sessions with the goal of achieving a final agreement at least 90 days prior to Qwest Broadband Services offering Cable Services within the City.

(d) On or within 10 days from the effective date of this Ordinance, Qwest Broadband Services, Inc. abn CenturyLink, Inc. shall file a written, executed acceptance of this Ordinance, meeting the approval of the Portland City Attorney, in the form attached as Exhibit B. The executed acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained therein. The failure, refusal or neglect by Qwest Broadband Services, Inc. abn CenturyLink, Inc. to file such written acceptance by such time shall constitute an abandonment and rejection of the rights and privileges conferred hereby, and this Ordinance shall thereupon be null and void without further action by the City.
Section 2. The Council declares that an emergency exists because the current cable franchise is due to expire on December 31, 2013, and the public interest would be harmed by a lapse in the cable franchise; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.
EXHIBIT B
ACCEPTANCE OF EXTENSION OF TERM OF CABLE FRANCHISE

Karla Moore-Love Council Clerk
City Hall
1221 SW 4th Ave Room 140
Portland, Oregon 97204

This is to advise the City of Portland, Oregon that Franchisee that Franchisee Qwest Broadband Services, Inc. ("Qwest BSI"), abn Centurylink, In hereby unqualifiedly accepts the provisions applicable to them of Ordinance No. _____________, passed by the City of Portland, Oregon on the ____ of ____, 2013, extending the term of the cable franchise granted by the City of Portland, Oregon to Qwest BSI under Ordinance No. 181414 and by Ordinance No. 184206 consenting to Qwest BSI’s parent, Qwest Communications International, Inc, change of control at the parent level to CenturyLink, Inc., to December 31, 2015 and agrees, as applicable, to abide by the following terms and conditions:

a. In all respects and without exception, Qwest BSI abn CenturyLink agrees and acknowledges that the extension of the term of the cable franchise will not affect, diminish, impair or supersede the binding nature of the existing valid ordinances, franchises, resolutions and agreements applicable to operation of the cable system, and that during the term of the extension Qwest BSI and CenturyLink shall comply with each and every provision of the cable franchise including all lawful applicable ordinances, orders, contracts, agreements, commitments, side letters, and regulatory actions taken pursuant thereto, as applicable, whether prior or subsequent to the date of the term extension that is the subject of this Acceptance.

b. Qwest BSI abn CenturyLink will comply with all applicable requirements of the cable franchise consistent with applicable federal and state law.

c. Qwest BSI abn CenturyLink specifically acknowledges and accepts that the City of Portland does not waive and expressly reserves all legal rights and authority in regard to any and all non-compliance under the cable franchise that may now exist or may later be discovered to have existed during the term of the franchise, even if prior to the extension of the cable franchise authorized by the Ordinance No. _____________.

d. Qwest BSI abn CenturyLink does not waive and expressly reserves all legal rights they may have under the current cable franchise and applicable law.
QWEST BROADBAND SERVICES, INC.
abn CENTURYLINK, INC.

By ____________________________
Name: __________________________
Title: __________________________

Date: __________________________, 2013

STATE OF __________________________
County of __________________________

This Acceptance was acknowledged before me on the ______ day of _____________,
2013, by __________________________
as __________________________, a duly authorized officer of Qwest Broadband Services, Inc.

Notary Public for __________________________
My Commission Expires __________________________

APPROVED AS TO FORM:

Portland City Attorney’s Office __________________________
c. Office for Community Technology
   P.O. Box 745
   Portland, OR 97207-0745