

ORDINANCE No. 186351

* Extend term of Qwest Broadband Services, Inc. cable franchise (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. 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").
2. 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.
3. The cable franchise by its original term expires on December 31, 2013. Ordinance No. 181414, Sec. 1.2.
4. The Mt. Hood Cable Regulatory Commission (MHCRC), acting 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.
5. 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.
6. At a meeting held on October 21, 2013, the MHCRC considered Qwest's request, and adopted a recommendation that the Portland City Council grant an additional extension of the term of the Qwest Broadband Services cable franchise for an additional two years until December 31, 2015.
7. 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.

8. 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.
9. 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 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 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 7 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 otherwise 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.

Passed by Council, NOV 27 2013
Mayor Charlie Hales
Prepared by MBH/BEW
November 12, 2013

LaVonne Griffin-Valade
Auditor of the City of Portland
By *Gayla Jennings*
Deputy

Agenda No.
ORDINANCE NO. 186351
 Title

*Extend term of Qwest Broadband Services, Inc. cable franchise (Ordinance)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p>	<p>CLERK USE: DATE FILED <u>NOV 22 2013</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: Revenue Bureau OMF CAO: Jack D. Graham Bureau Head: Thomas W. Lannon <i>[Signature]</i></p> <p>Prepared by: MBH Date Prepared: November 7, 2013</p> <p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter</p> <p>Council Meeting Date November 27, 2013 <i>[Signature]</i></p>	<p>ACTION TAKEN:</p>

AGENDA
<p>TIME CERTAIN <input type="checkbox"/> Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT X</p>
<p>REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	
Hales	Hales	✓	