

ORDINANCE No. **185053**

Extend the term of a temporary revocable permit granted to Qwest Corporation to build and operate telecommunications facilities in City streets. (Ordinance; amend Ordinance No. 175757)

The City of Portland ordains:

Section 1. The Council finds:

1. On July 5, 2001 the Council granted a temporary, revocable permit to Qwest Communications, Inc., to build and operate telecommunications facilities within the City's streets in order to allow Qwest to continue serving customers in Portland. Ordinance No. 175757.
2. The Council has granted numerous extensions of the temporary, revocable permit to allow Qwest to continue serving customers in Portland. In 2009, the Council extended the term of Qwest's revocable permit until December 31, 2011. Ordinance No. 183195.
3. On April 22, 2010, CenturyLink, Inc. announced it would acquire Qwest Communications Inc. in a stock-for-stock transaction. The acquisition of the Qwest shares by CenturyLink, Inc. was reviewed and approved by the Federal Communications Commission on March 18, 2011. The Oregon Public Utility Commission approved the CenturyLink/Qwest merger on March 24, 2011. OPUC Order No. 2011-04, UM 1484. The merger closed on April 1, 2011.
4. In the course of the transaction, CenturyLink took the position that Oregon municipal authorities had no legal authority to regulate the operations of any Qwest operating entity and as such, no Oregon city had authority as to the approval of the transaction. CenturyLink asserted the merger did not involve the sale or disposition of any assets of any Qwest operating entity or of the shares or ownership of any Qwest operating entity. As set forth in the applicable regulatory filings with the OPUC, CenturyLink represented that Qwest would continue as a legal entity following the closing of that transaction, and the operating entity with franchise agreements in effect with any Oregon municipal authorities would not change.
5. On October 26, 2011, the Council adopted non-emergency Ordinance No. 184957, amending Title 17 of the Portland City Code. Among other matters, the ordinance updated, clarified and reorganized various code sections. The Bureau of Transportation will need to adopt administrative regulations implementing various aspects of the revised code provisions. This process will affect some of the standard franchise language. As the bureau works to complete this process, the Office for Community Technology is recommending that the Council extend Qwest's revocable permit.

NOW, THEREFORE, the Council directs:

- a. Ordinance Number 175757 is hereby amended to extend the term of the temporary, revocable permit, continuously and without interruption, through December 31, 2012.
- b. All other terms and conditions of the temporary, revocable permit shall remain the same and unchanged.
- c. On or before thirty (30) days after this ordinance becomes effective, Qwest Corporation shall file in the Office of the Auditor of the City of Portland a written acceptance of this ordinance, executed by a duly authorized officer of Qwest Corporation, meeting the approval of the City Attorney. Any failure on the part of Qwest Corporation to file such written acceptance within such time shall be deemed an abandonment and rejection of this ordinance, and this ordinance shall thereupon be null and void. Such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms contained in this ordinance.

Passed by the Council:

DEC 07 2011

LaVonne Griffin-Valade

Auditor of the City of Portland

By:



Deputy

Commissioner Dan Saltzman

Prepared by: MRiddick/BEWalters

November 14, 2011

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Agenda No.
ORDINANCE NO. 185053
Title

Extend the term of a temporary revocable permit granted to Qwest Corporation to build and operate telecommunications facilities in City streets. (Ordinance; amend Ordinance No. 175757)

<p>INTRODUCED BY Commissioner/Auditor: Commissioner Dan Saltzman</p> <hr/> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>Dan Saltzman</i></p> <p>Position 4/Safety - Leonard</p> <hr/> <p>BUREAU APPROVAL</p> <p>Bureau: OCT Bureau Head: David C. Olson <i>David C. Olson</i></p> <p>Prepared by: M Riddick Date Prepared: November 17, 2011</p> <p>Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <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>Council Meeting Date November 30, 2011</p> <p>City Attorney Approval <i>Benjamin Walters</i></p>	<p>CLERK USE: DATE FILED <u>NOV 22 2011</u></p> <p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>Susan Larrous</i> Deputy</p> <p>ACTION TAKEN:</p> <p style="text-align: center;">NOV 30 2011 PASSED TO SECOND READING DEC 07 2011 9:30 A.M.</p>
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AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Leonard	4. Leonard <input checked="" type="checkbox"/>	
Adams	Adams <input checked="" type="checkbox"/>	