

ORDINANCE No. 185769

Extend term of franchise granted to Qwest Communications Company, LLC to build and operate telecommunications facilities within City streets. (Ordinance; amend Ordinance No. 171914)

The City of Portland ordains:

Section 1. The Council finds:

1. On December 31, 1997, the Council granted a franchise to Qwest Communications Corporation, to build and operate telecommunications facilities within the City's streets. Ordinance No. 171914.
2. In 2011, the Council extended the term of Qwest's telecommunications franchise until December 31, 2012. Ordinance No. 185052.
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 the merger transaction, and the operating entity with franchise agreements in effect with any Oregon municipal authorities would not change.
5. On October 26, 2011, the City 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 City is implementing various aspects of the revised code provisions, and City staff has begun negotiating a renewal agreement, including revised standardized franchise language to address the code amendments. Although franchise negotiations for a renewal agreement are in progress, parties have not agreed on all terms. City staff recommends that the City Council extend the existing franchise to allow time for parties to complete negotiations for a new agreement and to formally complete the formal Portland City Charter procedure for proposed franchises, which can take up to four months or more from the

date of the required initial publication.

NOW, THEREFORE, the Council directs:

- a. Ordinance No. 171914 is hereby amended to extend the term of the permit, continuously and without interruption, through February 14, 2015.
- b. All other terms and conditions of the Franchise shall remain the same and unchanged.
- c. On or before the thirtieth (30th) day after this ordinance becomes effective, Qwest Communications Corporation shall file in the Office of the Auditor of the City of Portland a written acceptance of this ordinance, executed by Qwest Communications Corporation, meeting the approval of the City Attorney. Any failure on the part of Qwest Communications 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 05 2012

LaVonne Griffin-Valade
Auditor of the City of Portland

By:



Deputy

Mayor Sam Adams
Prepared by: MRiddick/BEWalters
November 8, 2012

Agenda No. **185769**
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Title

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INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>NOV 20 2012</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams <i>[Signature]</i>	LaVonne Griffin-Valade Auditor of the City of Portland
Position 1/Utilities - Fritz	By: <i>[Signature]</i> Deputy
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL CAO: Jack D. Graham <i>[Signature]</i> Bureau: Revenue <i>[Signature]</i> Bureau Head: Thomas W. Lannom	ACTION TAKEN: NOV 28 2012 PASSED TO SECOND READING DEC 05 2012 9:30 A.M.
Prepared by: MRiddick/JLi Date Prepared: November 7, 2012	
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date November 28, 2012	
City Attorney Approval <i>[Signature]</i>	

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

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