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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINT :
OF UNITED TELEPHONE COMPANY :
OF OHIO, dba CENTURYLINK, :

Case No. 13-836-TP-CSS

Complainant, :

v. :

VILLAGE OF KIRKERSVILLE, OHIO, :

Respondent. :

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ANSWER OF RESPONDENT
VILLAGE OF KIRKERSVILLE, OHIO

NOW COMES RESPONDENT VILLAGE OF KIRKERSVILLE, OHIO ("Respondent"), by and through counsel, and for its answer to the complaint of United Telephone Company of Ohio dba CenturyLink ("CenturyLink"), states and avers as follows:

FIRST DEFENSE

1. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the complaint, and thereby denies the same.
2. Respondent admits it is a statutory Ohio municipal corporation with its office located at Village Hall, 135 North Street, Kirkersville, Ohio 43033.
3. Because the allegations contained in paragraph 3 of the complaint require Respondent to make a purely legal conclusion, it is not required to answer. To the extent Respondent must answer, it denies all allegations contained in paragraph 3 of the complaint.
4. Respondent submits that because Kirkersville Ordinance No. 03-2013 speaks for itself, Respondent is not required to answer. To the extent Respondent must answer, it denies all

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allegations contained in paragraph 4 of the complaint that are inconsistent with and/or misrepresent this Ordinance.

5. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the complaint, and thereby denies the same.
6. Respondent denies the allegations contained in paragraph 6 of the complaint.
7. Respondent incorporates by reference the admissions, denials, and other averments contained in paragraphs 1 – 6 of this answer with the same force and effects as if rewritten fully herein.
8. Respondent submits that because Kirkersville Ordinance No. 03-2013 speaks for itself, Respondent is not required to answer. To the extent Respondent must answer, it denies all allegations contained in paragraph 8 of the complaint that are inconsistent with and/or misrepresent this Ordinance.
9. Respondent submits that because Sections 901.04(b) and 901.08(b) of the Kirkersville Codified Ordinances speak for themselves, Respondent is not required to answer. To the extent Respondent must answer, it denies all allegations contained in paragraph 9 of the complaint that are inconsistent with and/or misrepresent these codified ordinance sections.
10. Because the allegations contained in paragraph 10 of the complaint require Respondent to make a purely legal conclusion, it is not required to answer. To the extent Respondent must answer, it denies all allegations contained in paragraph 10 of the complaint.
11. Respondent denies the allegations contained in paragraph 11 of the complaint.
12. Respondent denies the allegations contained in paragraph 12 of the complaint.
13. Respondent denies the allegations contained in paragraph 13 of the complaint.

14. Respondent incorporates by reference the admissions, denials, and other averments contained in paragraphs 1 – 13 of this answer with the same force and effects as if rewritten fully herein.
15. Respondent submits that because R.C. 4939.05(a) speaks for itself, Respondent is not required to answer. To the extent Respondent must answer, it denies all allegations contained in paragraph 15 of the complaint that are inconsistent with and/or misrepresent this statute.
16. Respondent submits that because Section 901.10 of the Kirkersville Codified Ordinances speaks for itself, Respondent is not required to answer. To the extent Respondent must answer, it denies all allegations contained in paragraph 16 of the complaint that are inconsistent with and/or misrepresent this codified ordinance sections.
17. Respondent denies the allegations contained in paragraph 17 of the complaint.
18. Respondent incorporates by reference the admissions, denials, and other averments contained in paragraphs 1 – 17 of this answer with the same force and effects as if rewritten fully herein.
19. Respondent submits that because R.C. 4935.05 speaks for itself, Respondent is not required to answer. To the extent Respondent must answer, it denies all allegations contained in paragraph 16 of the complaint that are inconsistent with and/or misrepresent this statute.
20. Respondent denies the allegations contained in paragraph 20 of the complaint.
21. Respondent denies all claims, allegations, averments, and characterizations contained in the complaint not specifically admitted in this answer.

SECOND DEFENSE

- 22. CenturyLink's complaint fails to state a claim upon which relief can be granted.
- 23. CenturyLink's complaint fails to set forth reasonable grounds for complaint.

THIRD DEFENSE

- 24. The Village of Kirkersville is not a proper party to a commission proceeding pursuant to Ohio Adm. Code 4901-1-10.

FOURTH DEFENSE

- 25. CenturyLink has no standing to file the instant action because it has not yet applied for, been subject to, or had levied against it, a right-of-way permit in the Village of Kirkersville.
- 26. The Commission lacks jurisdiction over the Village of Kirkersville.

FIFTH DEFENSE

- 27. The Commission lacks jurisdiction over the subject matter set forth in CenturyLink's complaint.

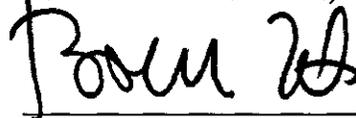
SIXTH DEFENSE

- 28. CenturyLink's complaint is barred by R.C. 4939.06's 30-day statute of limitations.

WHEREFORE, Respondent Village of Kirkersville, Ohio respectfully requests this Court dismiss CenturyLink's claims against it with prejudice as frivolous, assess costs to CenturyLink, award Respondent reasonable attorney's fees, and order any other relief deemed necessary and proper by this Court.

Respectfully submitted,

**WILES, BOYLE, BURKHOLDER
& BRINGARDNER CO., LPA**



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Village of Kirkersville, Ohio*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Answer of Respondent Village of Kirkersville* was served via regular United States Mail, postage prepaid, this 25th day of April 2013, upon the following:

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