



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

June 30, 2005

In reply refer to: KDP-7

Mr. Christopher J. Watkins, Vice President  
CenturyTel  
P.O. Box 9901  
Vancouver, WA 98668-8701

RE: FOIA 05-044

Dear Mr. Watkins:

Thank you for letter of June 23, 2005 requesting information under the Freedom of Information Act (FOIA). In your request, you asked for:

1. Any lease of fiber optic communications facilities owned by BPA and any other agreement for use of fiber optic communications facilities owned by BPA (e.g., indefeasible right of use agreements or agreements to provide capacity on such facilities), with any of the following entities:

Electric Lightwave, Inc.  
Electric Lightwave, LLC  
NoaNet Oregon  
LightSpeed Networks, Inc.  
LS Networks

2. All documents relating to any assignment or partial assignment of any agreements between BPA and NoaNet Oregon, including without limitation any lease to NoaNet Oregon of fiber optic communications facilities owned by BPA and any other agreement with NoaNet Oregon for use of fiber optic communications facilities by BPA.

Your request was received by our office on June 29, 2005 and has been logged in as FOIA #05-044.

You have agreed to pay fees up to \$250 to process your request. You asked that we contact you for further authorization should our fee estimate to process your request exceed \$250.

Mr. James Bryant, Realty Officer, has been designated as Authorizing Official for your request. Mr. Bryant has 20 working days, until July 29, 2005 to provide a response. Should you have any questions he may be reached at mail stop TR-TPP-4 or by calling 360-519-8640.

Sincerely,

Annie Eissler  
Freedom of Information Officer



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

July 13, 2005

In reply refer to: KDP-7

CenturyTel  
Mr. Christopher J. Watkins, Vice President  
PO Box 9901  
Vancouver, WA 98668-8701

RE: FOIA #05-044

Dear Mr. Watkins:

Thank you for your letter of June 23, 2005, requesting information under the Freedom of Information Act (FOIA). In your letter, you requested copies of documents containing the following:

1. Any lease of fiber optic communications facilities owned by BPA and any other agreement for use of fiber optic communications facilities owned by BPA (e.g., indefeasible right of use agreements or agreements to provide capacity on such facilities), with any of the following entities:

Electric Lightwave, Inc.  
Electric Lightwave, LLC  
NoaNet Oregon  
LightSpeed Networks, Inc.  
LS Networks

2. All documents relating to any assignment or partial assignment of any agreements between BPA and NoaNet Oregon, including without limitation any lease to NoaNet Oregon of fiber optic communications facilities owned by BPA and any other agreement with NoaNet Oregon for use of fiber optic communications facilities by BPA.

Your request was received by our office on June 29, 2005 and has been logged in as FOIA #05-044.

Ms. Toni Timberman, Customer Account Executive, has been designated as Authorizing Official for your request. Should you have any questions she may be reached at Mail Stop TM/OPP-2 or by calling 360-619-6015.

In your letter you agreed to pay costs up to \$250 to process your request. Upon review of your request, we have estimated fees associated with processing your request will run approximately \$740. In order for us to consider your request perfected and begin the 20 working day response time allowed by FOIA, we require your signed agreement to pay the fee amount estimated. Please provide your signature on the third page of this letter indicating your agreement to pay the estimated fees and return it to us. Upon receipt, our staff will promptly begin processing your request in the 20 working day time frame provided under the FOIA.

Should you have any questions, you may contact me at Mail Stop KDP-7 or by calling 503-230-5110.

Sincerely,

Annie Eissler  
Freedom of Information Officer

RE: FOIA Request #05-044 – Fee Estimate Agreement

For BPA's official records, please sign in the space indicated below that you accept the estimation of fees contained in this letter dated July 13, 2005, regarding FOIA request 05-044 and send back to me by return fax (503) 230-4576 or mail.

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Mr. Christopher J. Watkins, Vice President  
CenturyTel



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FACSIMILE TRANSMISSION

DATE: 07/19/05  
TO: Annie Eissler  
FAX: (503) 230-4576  
FROM: Christopher J. Watkins  
CenturyTel Inc.  
805 Broadway  
Vancouver, WA 98660  
(360) 905-6993 FAX: (360) 905-5953

RECEIVED BY	DATE
FOR OFFICE USE	7/19/05
DATE	8/16/05
BY	
PHONE	05-044

TOTAL NUMBER OF PAGES (including this cover page):

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COMMENTS

THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE PERSONAL USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. This facsimile transmission may also be an attorney-client communication that is privileged and confidential. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original facsimile transmission to us at the above address via the U.S. Postal Service. Thank you.

IF YOU HAVE PROBLEMS RECEIVING THIS TRANSMISSION, PLEASE CALL Erin Brunese at (360) 905-7301.

RE: FOIA Request #05-044 – Fee Estimate Agreement

For BPA's official records, please sign in the space indicated below that you accept the estimation of fees contained in this letter dated July 13, 2005, regarding FOIA request 05-044 and send back to me by return fax (503) 230-4576 or mail.

 07.19.05

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Mr. Christopher J. Watkins, Vice President  
CenturyTel



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

July 19, 2005

In reply refer to: KDP-7

CenturyTel  
Mr. Christopher J. Watkins, Vice President  
P.O. Box 9901  
Vancouver, WA 98668-8701

RE: FOIA 05-044

Dear Mr. Watkins:

Thank you for your fax of July 19, 2005, agreeing to pay processing fees of approximately \$740. In your original letter, under the Freedom of Information Act, you specifically requested copies of the following:

1. Any lease of fiber optic communications facilities owned by BPA and any other agreement for use of fiber optic communications facilities owned by BPA (e.g., indefeasible right of use agreements or agreements to provide capacity on such facilities), with any of the following entities:

Electric Lightwave, Inc.  
Electric Lightwave, LLC  
NoaNet Oregon  
LightSpeed Networks, Inc.  
LS Networks

2. All documents relating to any assignment or partial assignment of any agreements between BPA and NoaNet Oregon, including without limitation any lease to NoaNet Oregon of fiber optic communications facilities owned by BPA and any other agreement with NoaNet Oregon for use of fiber optic communications facilities by BPA.

Your request has been logged as FOIA #05-044.

Ms. Toni Timberman, Customer Account Executive, has been designated as Authorizing Official for your request. Ms. Timberman has 20 working days, until Aug. 16, 2005, to provide a response. Should you have any questions, she may be reached at Mail Stop TM/OPP-2 or by calling (360) 619-6015.

Sincerely,

Annie Eissler  
Freedom of Information Office



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

July 20, 2005

In reply refer to: KDP-7

CenturyTel  
Mr. Christopher J. Watkins, Vice President  
P.O. Box 9901  
Vancouver, WA 98668-8701

RE: FOIA #05-044

Dear Mr. Watkins:

Thank you for your fax of July 19, 2005, agreeing to pay processing fees of approximately \$740. for your request. In your original letter, under the Freedom of Information Act, you specifically requested copies of the following:

1. Any lease of fiber optic communications facilities owned by BPA and any other agreement for use of fiber optic communications facilities owned by BPA (e.g., indefeasible right of use agreements or agreements to provide capacity on such facilities), with any of the following entities:

Electric Lightwave, Inc.  
Electric Lightwave, LLC  
NoaNet Oregon  
LightSpeed Networks, Inc.  
LS Networks

2. All documents relating to any assignment or partial assignment of any agreements between BPA and NoaNet Oregon, including without limitation any lease to NoaNet Oregon of fiber optic communications facilities owned by BPA and any other agreement with NoaNet Oregon for use of fiber optic communications facilities by BPA.

Your request has been logged as FOIA #05-044.

Ms. Toni Timberman, Customer Account Executive, has been designated as Authorizing Official for your request. Ms. Timberman has 20 working days, until Aug. 16, 2005, to provide a response. Should you have any questions, she may be reached at Mail Stop TM/OPP-2 or by calling (360) 619-6015.

Sincerely,

Annie Eissler  
Freedom of Information Office



## Department of Energy

Official File

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

August 12, 2005

In reply refer to: KDP-7

CenturyTel  
Mr. Christopher J. Watkins, Vice President  
P.O. Box 9901  
Vancouver, WA 98668-8701

RE: FOIA #05-044

Dear Mr. Watkins:

I am writing regarding your Freedom of Information Act (FOIA) request #05-044. We are unable to meet the initial deadline for completion of this FOIA request. As permitted by statute, we will take a ten working-day extension of time in which to respond to your request. The extension will also provide us with enough time to collect and complete the review process of the materials gathered in response to your FOIA request. The new due date for this FOIA is Aug. 30, 2005.

If you have any questions, please contact me at (503) 230-5110. Thank you for your patience.

Sincerely,

Annie Eissler  
Freedom of Information Officer



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

September 23, 2005

In reply refer to: DK-7

Gregory J. Stuman, Esq.  
Francis Hansen & Martin, LLP  
1148 N.W. Hill Street  
Bend, Oregon 97701-1914

Re: Freedom of Information Act (FOIA) request No. 05-044

Dear Mr. Stuman:

This letter responds to your letter of August 22, 2005, on behalf of Lightspeed Networks, Inc., dba LS Networks, to Charles Combs, in which you outline LS Networks' concerns regarding the release of the following listed documents:

1. Email from Jim Arntz to Matt Rios dated March 25, 2005, subject: assignment of Noanet license agreement
2. Agreement for Sale and Purchase of Loan between CFC and Lightspeed
3. Email from Jim Arntz to Matt Rios dated March 25, 2005, subject: BPA consent
4. Facsimile to Jim Arntz from Charles Combs dated March 29, 2005
5. Email from Jim Arntz to Chuck Combs dated March 29, 2005, subject: confidentiality agreement
6. Email from Jim Arntz to Matt Rios dated March 29, 2005, with attachments, subject financial information
7. Email from Al Gonzalez to Matt Rios dated April 1, 2005, subject NoaNet Oregon assignment to Lightspeed
8. Email from Al Gonzalez to Matt Rios dated April 8, 2005, subject: Information request
9. Email from Al Gonzalez to Matt Rios dated April 19, 2005, with attachment, subject: Lightspeed networks status
10. Two page document with questions for NOANET and Light Speed and LS Networks Response to BPA Questions
11. Letter dated May 13, 2005, from Nancy E. Morgan to Al Gonzalez
12. Letter with enclosure dated May 27, 2005, from Nancy E. Morgan to Mark Holden
13. Letter with enclosure dated July 5, 2005, from Virginia to Matt Rios
14. Confidentiality Agreement dated March 29, 2005, between BPA, NoaNet and Lightspeed

In Bonneville Power Administration's letter to LS Networks dated August 12, 2005, LS Networks was requested to provide BPA with an item-by-item indication of the specific information in the documents enclosed with BPA's letter that LS Networks believed to be exempt from public disclosure. In response to BPA's request, LS Networks presented its objections to the public disclosure of specific items and explained its reasons for its claim that this information is exempt from public disclosure. After considering the arguments in LS Networks' letter to Mr. Combs, BPA has decided to release the enclosed documents in response to the above-referenced FOIA request.

As you may know, BPA's FOIA obligations require that BPA disclose all non-exempt, segregable portions of requested records. Of the above-listed items, BPA is choosing to withhold the items that are not enclosed because BPA believes their release could substantially harm LS Networks' competitive position. However, BPA believes that release of the enclosed documents do not reveal information about LS Networks' business that would be harmful to LS Networks' competitive position. Further, because the enclosed information was submitted to BPA because BPA *required* LS Networks to provide information to enable BPA to evaluate a request for approval of assignment of BPA contract No. 01TX-10722, BPA believes that the more stringent test of *National Parks and Conservation Association v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) applies and not the test of *Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir. 1992) stated in your letter. BPA does not believe the other authorities you cite support LS Networks' position with respect to the enclosed items.

BPA is providing LS Networks with seven days notice of its intent to disclose the enclosed the redacted documents pursuant to 10 CFR § 1004.11(g).

BPA will release the enclosed documents to Century Tel on October 3, 2005.

Sincerely,

Christina J. Brannon  
Freedom of Information Act Officer

Enclosures:

1. Email from Jim Arntz to Matt Rios dated March 25, 2005, subject: assignment of Noanet license agreement
2. Email from Jim Arntz to Matt Rios dated March 25, 2005, subject: BPA consent
3. Facsimile to Jim Arntz from Charles Combs dated March 29, 2005

4. Email from Jim Arntz to Chuck Combs dated March 29, 2005, subject: confidentiality agreement
5. Confidentiality Agreement dated March 29, 2005, between BPA, NoaNet and Lightspeed
6. Email from Al Gonzalez to Matt Rios dated April 8, 2005, subject: Information request
7. Letter dated May 13, 2005, from Nancy E. Morgan to Al Gonzalez
8. Letter with enclosure dated May 27, 2005, from Nancy E. Morgan to Mark Holden
9. Letter with enclosure dated July 5, 2005, from Virginia to Matt Rios
10. Two-page document with questions for NOANET and Light Speed and LS Networks Response to BPA Questions, with the response redacted. Only the questions will be released.