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IDAHO PUBLIC
UTILITIES COMMISSION

March 7, 2012

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702-5983

RE: Case Nos. QWE-T-12-01, CEN-T-12-01, CGS-T-12-01

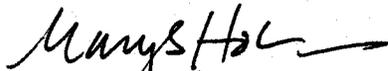
Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of **THE CENTURYLINK COMPANIES' REPLY COMMENTS IN SUPPORT OF PETITION FOR EXEMPTION.**

CenturyLink's Confidential Attachment A, which is filed under separate cover and with an Attorney's Certificate, contains confidential information that supports the relief requested in the Companies' Petition.

If you have any questions, please contact me. Thank you for your cooperation in this matter.

Very truly yours,


Mary S. Hobson

Enclosures

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Attorneys for the CenturyLink Companies

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<p>IN THE MATTER OF QWEST CORPORATION DBA CENTURYLINK QC, CENTURYTEL OF IDAHO, INC. DBA CENTURYLINK AND CENTURYLINK OF THE GEM STATE, INC. DBA CENTURYLINK'S PETITION FOR AN EXEMPTION OF THE COMMISSION'S TELECOMMUNICATIONS CUSTOMER RELATIONS RULE 502 (IDAPA 31.41.01.502)</p>	<p>Case Nos. QWE-T-12-01 CEN-T-12-01 CGS-T-12-01</p>
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THE CENTURYLINK COMPANIES' REPLY COMMENTS IN SUPPORT OF PETITION FOR EXEMPTION

Qwest Corporation dba CenturyLink QC, CenturyTel of Idaho, Inc. dba CenturyLink, and CenturyTel of the Gem State, Inc. dba CenturyLink (collectively "the CenturyLink companies" or "CenturyLink") by and through their undersigned attorneys and pursuant to Commission Order No. 32446, file the following Comments in support of CenturyLink's Petition for Exemption from Rule 502 of the Commission's Customer Relations Rules.

BACKGROUND

The CenturyLink Companies filed their Petition seeking an exemption from the Rule 502 on December 22, 2011. The Commission issued its Notice of Petition, Notice of Modified Procedure and Order No. 32446 notifying “any person desiring to state a position on this Petition” that written comments “in support or in opposition” of the Petition may be filed with the Commission within 28 days from the service date, January 25, 2012. Frontier Communications Northwest Inc. and Citizens Telecommunications Company of Idaho dba Frontier Communications of Idaho, (collectively, "Frontier") filed comments fully supporting CenturyLink’s Petition and asking that the Commission “immediately grant a waiver of Rule 502 to CenturyLink and all similarly situated companies.” Frontier Comments, p. 2. Frontier also requested that the Commission open a rulemaking to discuss what it terms “an imbalance in regulation, which limits the flexibility with which regulated companies can respond to customers.” Id.

The Idaho Public Utilities Commission Staff (“Staff”) filed comments recommending that the Commission deny CenturyLink’s request for an exemption and recommending that the Commission open “a Negotiated Rulemaking Proceeding regarding Rule 502.” These Reply Comments address Staff’s reasons for opposing the exemption and the scope of any Commission rulemaking relating to telecommunications rules.

REPLY TO STAFF REVIEW

Staff’s opposition to CenturyLink’s requested relief appears based on two concerns: 1) the scope of the requested exemption (“CenturyLink’s waiver request as a practical matter would eliminate the rule entirely for all customers throughout its service territory,” Staff Comments, p. 3), and 2) the possibility that some customers do not have competitive alternatives to CenturyLink wireline voice service (“when wireline service fails, few, if any

alternative communication services are available in some rural areas” Id.). Neither of these concerns justifies Staff’s wholesale opposition to CenturyLink’s Petition, nor do they respond to the legal and practical issues raised in the Petition and reinforced by Frontier’s Comments.

1. Relief by exemption is not limited to small companies or requests impacting few customers.

The Commission may grant an exemption where “unusual or unreasonable hardships result from the application of any of [its] rules”. . . IDAPA 31.41.01.003 (“Rule 3). Nothing in the Commission’s rules prevents it from granting of relief in the form of an exemption where, as here, the unusual and unreasonable hardships resulting from the application of the Commission’s Rule 502 impact a large Idaho company instead of a small one. Nor, as Staff seems to suggest, do the Commission’s rules require that requests for relief impacting a relatively large number of customers be addressed only in a rulemaking proceeding. Requiring rulemaking would ignore the important differences between the company-specific and the relatively immediate relief contemplated by Rule 3 and the more comprehensive, and considerably more time-consuming process of rulemaking¹, with its general application to all companies.

While Staff correctly notes CenturyLink has stated its willingness to participate in rulemaking, CenturyLink’s intention was to suggest that a broader examination of the Commission’s rules in general as they impact the competitive viability of regulated companies may be appropriate. At the same time, CenturyLink asked that the Commission “expeditiously grant the relief requested” in its Petition. Id at 19. The

¹ A rulemaking proceeding, because of the requirement of review by the Legislature, cannot be completed until the 2013 Legislative session. In the highly competitive environment in which CenturyLink operates, a delay of relief for another year or more is itself an unjustified hardship. See Confidential Attachment A, which shows the significant changes experienced by CenturyLink over an 18-month time frame.

Commission should grant CenturyLink's exemption, even if it plans to open a rulemaking proceeding. Staff presents no compelling reasons that should cause the Commission to delay the request for immediate relief from Rule 502.

2. The undisputed competitive disadvantage to CenturyLink resulting from the application of Rule 502 demonstrates the exemption should be granted.

The heart of Staff's opposition to CenturyLink's Petition is concern about remote rural customers who, Staff perceives, do not have alternatives to traditional wireline service offered by CenturyLink². However, Staff does not and indeed cannot, argue with CenturyLink's primary point that the vast majority of customers have several alternatives to CenturyLink wireline service. This fact establishes two things: it underscores CenturyLink's competitive disadvantage as the only provider among competitors that is subject to Rule 502, and it shows that most customers are not truly "out of service" while wireline repair is taking place.

In the case of CenturyLink QC, which is regulated under Title 62, Idaho Code, the competitive disadvantage resulting from the application of Rule 502 runs afoul of Idaho Code § 62-605 (5) (b), which requires the Commission's authority to "determine the noneconomic regulatory requirements relating to basic local exchange service" be exercised in a manner that is "technologically and competitively neutral." CenturyLink's request for exemption allows the Commission to restore the competitive neutrality mandated by the Legislature for Title 62 companies.

In addition, for all of the CenturyLink companies, the application of the Rule creates a competitive disadvantage that plainly comes within the scope of Rule 3 relief

² Staff makes some inaccurate claims regarding services available to rural customers that CenturyLink will address below.

from unreasonable or unusual hardship. As one concrete example, the fact that CenturyLink alone among its competitors must provide a full month's credit to each customer whose service is not restored within 24 hours, regardless of whether the customer was inconvenienced by--or even noticed--the delay, is evidence of an unreasonable hardship occasioned by the application of Rule 502.

3. The overwhelming majority of CenturyLink customers have alternatives offered by competitors who are unfettered by Rule 502.

Staff Comments make no effort to refute the conclusion that Rule 502 creates a unique regulatory hardship for CenturyLink as compared with its unregulated competitors. Instead, Staff chooses to focus on the extreme margins, suggesting that the circumstances impacting a relative handful of customers somehow justify the continued application of Rule 502 to all of CenturyLink. Staff contends that "it may not be true" that customers "in the very rural parts of CenturyLink's service territory" have access to wireless and broadband services. Staff Comments, p. 3

CenturyLink concedes that something less than 100% of its customers have access to wireless and broadband. Indeed, when wireline service was the only alternative and universal service policies supported telephone companies' expansion, 100% penetration for wireline was never achieved. However, in attempting to identify a very narrow segment of CenturyLink's customer base that lacks access, Staff overstates its case and ignores the fact the vast majority of customers have access to competitive alternatives that augment and even substitute for their wireline service. The Commission has always taken a reasonable position with regard to the service levels required in the

most remote and isolated parts of a company's service territory. Staff's Comments ask that the Commission reverse this policy.

a. Wireless service is available to almost everyone in CenturyLink territory.

Looking at the question of availability of wireless service, Staff apparently does not dispute that nearly all customers in the legacy Qwest territory have wireless access. Staff also concedes that wireless alternatives are available in the CenturyTel of Idaho exchanges of Salmon and Leadore. *Id.* at 4. That leaves only the North Fork exchange in northeast Idaho—with roughly of 250 access lines (residence and business)—without wireless access by Staff's estimation. This exchange represents only about 8 % of the lines in the legacy CenturyTel of Idaho service territory. Furthermore, CenturyLink's information differs from Staff's in that the company's service technician reports wireless service in North Fork is "intermittent due to the mountain terrain" but "that doesn't stop everyone here from having one (wireless phone)." This latter comment raises an important point about rural customers and wireless service. While some rural customers may not be able to access wireless service at their homes, because of their isolation these customers spend a lot of time in their automobiles accessing all kinds of other necessities such as groceries, schools, medical facilities and so on. This mobility enables people to make use of wireless service while on the road and explains its popularity even in areas where it may not work well in some residences.

In the CenturyTel of the Gem State territory, the situation is very similar. Staff concedes wireless access is available in Grandview and Richfield, but states "there are no cellular services in Bruneau or Grasmere-Riddle." *Id.* at 3. CenturyLink contends wireless service is accessible in parts, but not all, of the Bruneau exchange, and agrees it

is not accessible in the vast majority of the Grasmere-Riddle exchange. CenturyLink's records again show these areas, although geographically very large, contain very few customers. Despite its large geographic area, CenturyLink has only about 100 access lines in the Grasmere-Riddle exchange. Most of these are clustered on the Nevada/Idaho border on the Duck Valley Reservation. These customers are served out of a central office in Owyhee, Nevada. Neither Grasmere nor Riddle constitutes anything resembling a community. *See Attachment B showing aerial photographs of these areas (Source: Google Maps).* Similarly the approximately 200 access lines in the Bruneau exchange are widely distributed within a very large geographic area, although Bruneau itself does contain a school, post office and a cluster of homes. If one were to assume, contrary to fact, that none of the customers in these two exchanges has access to wireless, the total lines in these exchanges represents less than 30 % of the access lines in the legacy Gem State territory.

Comparing the number of the lines in the areas claimed by Staff to be without wireless access in both CenturyTel of Idaho and CenturyTel of the Gem State, the total comes to approximately 550. That is less than two tenths of one percent (.2%) of the roughly 300,000 CenturyLink lines in Idaho. CenturyLink does not suggest that the customers who subscribe to these lines do not matter, or that rural customers should not have reliable service. The fact is, however, these customers constitute a tiny minority. The competitive realities facing the CenturyLink companies as they serve the overwhelming majority of their customer base requires that an exemption from Rule 502 be granted.

Finally, it is ironic that Staff's Comments have singled out remote exchanges in the service territory of CenturyTel of the Gem State to make its case in opposition to the exemption. In its Petition, CenturyLink specifically noted that the Gem State territory should qualify for an exemption due to the unique physical characteristics of the service territory that make compliance with Rule 502 impossible from a practical standpoint. Petition, pp. 13-14. Staff did not respond to the fact that CenturyTel of the Gem State qualifies for an exemption from Rule 502 on independent grounds.

b. Staff underestimates the availability and capability of broadband services in rural Idaho.

Staff's Comments state that "CenturyLink currently does not offer broadband service to its customers located in the legacy area formerly served by CenturyTel of the Gem State." Id. at 3. Staff is misinformed. CenturyLink offers broadband service, including standalone broadband service, in all of its exchanges. This means that customers can choose to subscribe to standalone high speed internet from CenturyLink and choose a VoIP provider for voice service. In the CenturyTel of Idaho territory, 98% of the available lines are broadband capable. Even in a low density, remote area such as the Grasmere-Riddle exchange, almost 70% of the available lines in the area are broadband capable.

CenturyLink customers in rural Idaho also have competitive broadband alternatives. In the former CenturyTel of Idaho service territory, customers in Leadore and North Fork have access to satellite broadband service³. Interestingly the third exchange, Salmon, has both a satellite option and a facility-based broadband competitor,

³ Broad band satellite service does not accommodate Voice over Internet Protocol (VoIP) service due to time delays in the signal reaching the satellite. However, broad band access allows customers to communicate through email, to exchange documents, conduct Internet commerce etc.

Custer Telephone, which is expected to provide local voice service in competition with CenturyLink later this year. Customers in the CenturyTel of the Gem State's Richfield exchange also have a satellite broadband alternative. Customers in Grand View, Bruneau, and Grasmere-Riddle have three competing satellite broadband providers. In addition, those in Grand View also have the option of mobile wireless broadband service.

Staff Comments also seem to underestimate the significance of having broadband. Staff contends that small business customers "may have a greater reliance on wireline service [than residence customers]" citing its use for facsimile transmission, and advertising purposes.⁴ Id. at 4. Staff's Comments overlook the role of broadband in providing a competitive alternative to and ancillary benefits above traditional wireline service. In general, businesses today rely much more heavily on emailing documents over a broadband connection than sending facsimiles over a phone line. Furthermore, as the use of paper directories steadily declines, businesses rely on websites and other forms of advertising to attract customers. If CenturyLink does not perform to customers' satisfaction or if other technologies better serve them, small business customers (just like residence customers) can and do choose competitors to CenturyLink, even for sending documents. The suggestion Rule 502 must continue to apply to CenturyLink to protect the interests of small business customers in sending faxes and maintaining the value of their directory advertising investment is not only outside the scope of the Commission's

⁴ The Comments' focus on advertising and facsimile transmission misses an important point. The Commission's service quality regulatory authority is limited to services within the definition of "basic local exchange service" as found in § 62-603 (1), Idaho Code, i.e., "the provision of access lines. . . with the associated transmission of two-way interactive voice communication." (emphasis added). Since neither facsimile transmission nor advertising are voice services, they lie outside the scope of the Commission's authority.

regulatory authority over basic local exchange service, it seems particularly out of touch with today's environment.

4. Staff's claim of Rule 502's "relevance" is misguided.

Staff's Comments state that it "does not agree that the existence of competition in a large geographic area renders Rule 502 obsolete." *Id.* p. 4. The Comments contain little in the way of an explanation of this statement. Apart from pointing out that not every customer has access to every competitive alternative, the only other argument advanced is that "Rule 502 provides a modest incentive for companies to restore service in a timely manner." *Id.* Both of these statements appear to suffer from a misunderstanding of the role of competition in regulating markets and demonstrate a belief that only government regulation can incent good customer service.

In its Petition CenturyLink pointed out that wireless penetration in 2009 was between 80 and 90 percent and that there were nearly two wireless connections for every housing unit in Idaho. Petition, p. 8. CenturyLink noted that in 2010, 67 % of all voice connections in Idaho were wireless (*Id.* at 5), and that as of June 2010, over 30 % of Idaho households no longer had wireline service and relied solely on wireless. *Id.* at 4. CenturyLink has lost 43 percent of its lines since 2001. *Id.* at 5. Similar information was provided to demonstrate the profound impact of broadband competition. *Id.* at 9. Staff's Comments make no mention of any of these facts. The Comments do not attempt to explain why a "modest incentive" in the form of a Commission Rule is needed when CenturyLink stands to lose the customer and all future revenue from that customer to a competitor. Nor do they address the legal prohibition against regulation that is not "technologically and competitively neutral." §62-605 (5) (b), Idaho Code. The

Comments do not address why a regulation that applies to only one competitor among several does not impose an “unusual or unreasonable hardship” on that competitor. In short Staff Comments do not make their case that Rule 502 serves some relevant purpose that justifies its continued application to CenturyLink in the face of the demonstrated facts.

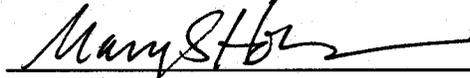
CONCLUSION

Staff has not provided any reason that the Commission should not immediately grant the exemption request. Regardless of whether the Commission also decides to open a rulemaking proceeding to consider the competitive impacts of the Commission’s rules on all regulated companies, the exemption meets the requirements of Rule 3 and should be granted to avoid further competitive harm to CenturyLink. The Staff’s focus on a few of the most isolated and widely dispersed rural customers is a deflection from the compelling competitive story laid out by CenturyLink, reinforced by Frontier, and effectively undisputed by Staff.

It is not CenturyLink’s objective to abandon rural Idaho or to provide poor customer service to any of its customers. For CenturyLink in particular, providing high quality service in rural service territory has been key to its history and its success. What CenturyLink hopes the Commission will understand is that good customer service means different and more complex company responses than were imagined when Rule 502 was adopted. CenturyLink is in the best position to determine how to meet evolving customer needs and it has every incentive to meet the real needs of its customers since customers have choices and will exercise them if it CenturyLink missteps. Rule 502’s alleged incentive is unnecessary and burdensome to CenturyLink.

Submitted this 7th day of March, 2012.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing **CENTURYLINK COMPANIES' REPLY COMMENTS IN SUPPORT OF PETITION FOR EXEMPTION** was served on the 7th day of March, 2012 on the following individuals:

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Weldon B. Stutzman
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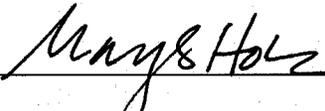
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ATTACHMENT B



Riddle, Idaho

