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IDAHO PUBLIC
UTILITIES COMMISSION

May 31, 2012

VIA HAND DELIVERY

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

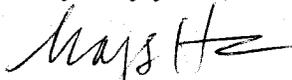
RE: Case No. GNR-T-12-03

Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of **THE COMMENTS OF THE CENTURYLINK COMPANIES** in support of the revisions to Rule 502, IDAPA 31.41.01.502 as reflected in the Commission's Order No. 32543.

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

IN THE MATTER OF THE COMMISSION'S)	
REVIEW OF TELEPHONE CUSTOMER)	CASE NO. GNR-T-12-03
RELATIONS RULE 502, IDAPA 31.41.01.502)	
)	COMMENTS OF THE
)	CENTURYLINK
)	COMPANIES
)	

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, file these Comments in support of the revised Rule 502 (IDAPA 31.41.01.502) ("revised Rule") referenced in the Idaho Public Utilities Commission's Notice of Settlement Stipulation, Notice of Modified Procedure, and Order No. 32548 (hereinafter "the Commission's Notice"), entered in the above-referenced docket on May 10, 2012.

BACKGROUND

The Commission's Notice correctly observes that the present docket reviewing Rule 502 arose out a CenturyLink filing made in December, 2011, in which the

CenturyLink companies sought a full exemption to relieve the unusual and unreasonable hardships that result from Rule 502's application to CenturyLink. These hardships stem from the profound changes that have occurred in the telecommunications industry in Idaho since the provisions of Rule 502 were adopted eighteen years ago. Today, the majority of Idaho voice customers enjoy access to alternative forms of voice communication (e.g., wireless phones, cable telephony, and Voice over Internet Protocol (VoIP) service) that substitute for the service regulated under Rule 502. These industry changes create two significant shifts in the context in which the present Rule operates. First, from a customer standpoint, the availability of these new forms of communication means the vast majority of customers are not "out of service" should their CenturyLink service not be restored immediately. Second, while there is now fierce competition for these customers among the multiple providers of these various forms of communication, only one competitor—CenturyLink—is regulated under Rule 502 in the markets it serves. The Rule is neither technologically nor competitively neutral and its application to CenturyLink places it at a competitive disadvantage.

The impact of the changes in the market is evident from recent studies. Wireless technology, in particular, has had a large impact on the CenturyLink companies. As of June 2010, over 30% of Idaho households no longer had wireline service and relied solely on wireless technology for their voice needs.¹ The FCC reported that in 2009 wireless penetration in all Idaho economic areas studied was between 80 and 90%.² Most

¹ *Centers for Disease Control and Prevention, National Center for Health Statistics, Wireless Substitution: State-level Estimates from the National Health Interview Survey, January 2007–June 2010, released April 20, 2011, Table 3.*

² *Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 10-133. Fifteenth Report, Released: June 27, 2011, Table C-3.*

customers that have not eliminated their wireline service have both a wireline and a wireless phone in the household. The FCC identified 1,221,000 wireless connections in Idaho in 2009, while the 2009 census recorded only 647,502 housing units in the state.³ This represents a ratio of nearly 1.9 wireless connections per housing unit in Idaho. In comparison, as of December 2010, the FCC reported there were only 455,000 incumbent local exchange carrier (ILEC) access lines in Idaho.⁴ Further, in its latest report, the National Center for Health Statistics (NCHS) reported that only 12.9% of landline households in the United States did not have a wireless phone.⁵ Thus, for the vast majority of wireline customers who also maintain a wireless connection, an out-of-service condition for their wireline service does not have nearly the impact for voice communication capability that it did in 1993.

In addition, any customer with a broadband connection can subscribe to VoIP⁶ services from a carrier like Vonage or Google to meet their voice needs. According to the FCC, as of December 2010, there were 706,000 broadband connections in Idaho⁷—a number that also significantly exceeds the 455,000 ILEC access lines in the state.⁸ Each of these broadband customers can use VoIP for voice calling and avoid buying basic local exchange service from an ILEC such as one of the CenturyLink companies.

³ See <http://www.census.gov/popest/data/housing/totals/2009/index.html> 2010 Housing unit data is not yet available.

⁴ *Local Telephone Competition: Status as of December 31, 2010*; Industry Analysis and Technology Division, Wireline Competition Bureau, October 2011, table 13.

⁵ Centers for Disease Control and Prevention, National Center for Health Statistics, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-Dec 2010*, released June 8, 2011, Table 1.

⁶ The term voice over Internet protocol (VoIP) service refers to telecommunications services that are provided without using the public switched network upon which traditional telephone services are based.

⁷ *High Speed Services for Internet Access: Status as of December 31, 2010*, FCC Industry Analysis and Technology Division, Wireline Competition Bureau, October 2011, Table 17.

⁸ *Local Telephone Competition: Status as of December 31, 2010*; Industry Analysis and Technology Division, Wireline Competition Bureau, October 2011, table 8.

CenturyLink's petition for exemption was predicated, therefore, on dual notions that the world had changed for customers who now enjoy many alternatives, while regulation lagged far beyond the competitive realities of today's telecommunications industry, creating a competitive disadvantage to incumbent providers. The Commission responded to this petition in its Notice of Petition, Notice of Modified Procedure and Order No. 32446 issued January 25, 2012. At page 2 the Commission sought the comments of interested parties on "whether a broader rulemaking procedure is appropriate, and whether an exemption to Rule 502 should be granted to CenturyLink in the meantime." Frontier Communications Northwest Inc. and Citizens Telecommunications Company of Idaho d/b/a Frontier Communications of Idaho (collectively, "Frontier") filed comments fully supporting CenturyLink's position and requesting the Commission "open a rulemaking to discuss these important issues and immediately grant a waiver of Rule 502 to CenturyLink and all similarly situated companies."

The Idaho Public Utilities Commission Staff ("Staff") in response to the Commission's January 25 Notice filed comments recommending denial of CenturyLink's request for an exemption and recommending that the Commission open "a Negotiated Rulemaking Proceeding regarding Rule 502." However, the Staff's comments did not take issue with CenturyLink's primary contentions that most customers have competitive choices including wireless and broadband services, and that virtually every competitor that incumbents like CenturyLink face in the competitive market is unregulated by Rule 502. Staff's concerns were instead focused on the smallest of minorities in the most remote locations in CenturyLink territory that may not be able to receive wireless service in their homes or who do not as yet have alternative broadband providers.

Following these submissions, representatives of Staff and CenturyLink continued to discuss how the issues could be best addressed by the Commission and the industry. On March 28, 2012 Staff and company representatives met informally to determine whether any agreement was possible on interim relief for the CenturyLink Companies while the rulemaking process proposed by Staff proceeded. The parties to that meeting were not able to agree on interim relief but did agree on a procedure that would address Rule 502 in a rulemaking proceeding that could afford interim relief, assuming consensus on rule revisions could be reached. Staff agreed to seek the Commission's approval for the initiation of a Negotiated Rulemaking and (assuming the Commission's consent) to schedule a workshop for all interested parties for the purpose of addressing Rule 502 on Monday, April 30, 2012. That process was approved, and during the workshop attended by CenturyLink, Frontier, TDS Telecommunications Corporation, and the Idaho Telecom Alliance, the revised Rule that is the subject of the Commission's Notice in this docket was negotiated and agreed upon.

The parties to that workshop commemorated their agreement in a Settlement Stipulation filed with the Commission May 4, 2012. The Stipulation requests that the Commission process the agreement by modified procedure, approve the revised rule and submit to the Rules Coordinator for publication and promulgation.

THE REVISED RULE

CenturyLink supports the revised Rule and urges the Commission to approve and promulgate it. The revisions successfully address CenturyLink's primary concerns with the existing Rule 502 and promote a more competitive telecommunications market in

which customer's desires and concerns, not outmoded regulatory constructs, drive competitive companies' responses.

The existing Rule 502 contained three regulatory concepts: 1) standard intervals for the restoration of traditional wireline telephone service which, in most cases, required service to be restored in 24 hours; 2) a requirement to provide a month's service charge credit to every customer whose service was not restored with the standard intervals; and 3) a requirement to report to the Commission when a company was not able to meet the restoration interval requirements 90 per cent of the time for three consecutive months.

The first of these concepts, the standard intervals for restoration of voice service, when adopted, were based on the assumption that a customer had no alternative to his basic wireline phone service. But, as noted above, the times have changed dramatically since Rule 502 was adopted. The FCC reported wireless penetration in all Idaho was between 80 and 90% in 2009⁹ and the National Center for Health Statistics (NCHS) reported that only 12.9% of landline households in the United States did not have a wireless phone.¹⁰ Today it is fair to say most Idaho customers also maintain a wireless connection that enables voice communication even when their wireline is out-of-service. Restoration of wireline service, therefore, is no longer as important to customers as it once was. The revised Rule lengthens and clarifies those intervals while still maintaining standards for restoration that protect customers. CenturyLink believes this change strikes an appropriate balance and supports its adoption.

The requirement of the existing rule that any customer whose service is not restored within the standard interval receive a month's free service is the most blatant

⁹ See Id. at fn. 2.

¹⁰ See Id. at fn 5.

example of how Rule 502 creates a competitive disadvantage for incumbent companies. No other competitor is required to pay such credits, which can total a substantial economic cost. Nor does any evidence support the assumption that such credits are beneficial in addressing customer concerns or even in maintaining customers who are dissatisfied. In fact, since Rule 502 focuses only on wireline voice service, it ignores what today's customers routinely report to CenturyLink, i.e., that their broadband and Internet services are more important to them than wireline voice service. All this is not to suggest that customers who do not receive prompt repairs to their wireline service will be ignored. But, eliminating the Rule requirement that a month's free service be given all customers regardless of their circumstances, frees the CenturyLink companies to design customer responses that better meet their customers' concerns. If some customers value wireline voice, while others prioritize their broadband service, the companies should have the flexibility to respond accordingly. How customers are treated when there is a problem with service should be a means for companies to differentiate themselves in a competitive marketplace. The elimination of the credit requirement in the revised Rule promotes competition and is in the customers' ultimate best interests.

The existing Rule's requirement that regulated companies report to the Commission when they do not meet the restoration interval at least 90 per cent of the time for three consecutive months creates a regulatory burden that forces CenturyLink to allocate its resources to try to comply with the Rule, rather than to address customer needs. As discussed above, restoration of wireline voice service within 24 hours no longer reflects the priorities of many customers. Instead, increasing numbers of customers are interested in their broadband connections and access to the Internet. A

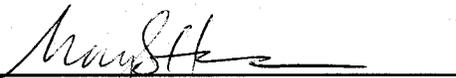
Rule that forces CenturyLink to focus on something most customers care less about and that drains resources from the products and services they do care about is not good for customers and harms CenturyLink competitively. The revisions to Rule 502 address these issues and allow customers and the markets to drive CenturyLink's resource allocations.

CONCLUSION

The revised Rule 502 recognizes and responds to the issues that the CenturyLink Companies raised in their Petition for Exemption. The revisions do not entirely eliminate regulation of service restoration requirement but they allow for those incumbents that are regulated to compete more effectively with their unregulated competitors and to better address the needs of customers. CenturyLink urges the Commission to approve the revised Rule and submit it to the Rules Coordinator for publication and promulgation. CenturyLink further requests the Commission adopt the revised Rule on an interim basis until the revisions can be approved as a permanent rule.

Submitted this 31st day of May, 2012.

Respectfully submitted,


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