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Attorney for the Commission Staff

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
) COMMISSION STAFF
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COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, and in response to the Notice of Settlement Stipulation and Notice of Modified Procedure issued in Order No. 32548 on May 10, 2012, submits the following comments.

BACKGROUND

On December 22, 2011, a Petition was filed by Qwest Corporation dba CenturyLink QC, CenturyTel of Idaho, Inc. dba CenturyLink, and CenturyTel of the Gem State, Inc. dba CenturyLink (the CenturyLink Companies or CenturyLink) requesting an exemption from the Commission's Telephone Customer Relations Rule 502 (IDAPA 31.41.01.502). Rule 502 establishes standards for a telephone company to restore basic local service after an outage, and requires payment of customer credits when standards are not met. The rule was initially adopted in 1993, and CenturyLink asserted in its Petition that changes in the telecommunications industry

since the rule was adopted make the rule obsolete, and that the rule now creates unusual and unreasonable hardships in a competitive marketplace that did not exist when the rule was adopted.

Rule 502, under most circumstances, requires a telephone company to restore local service within 24 hours after an outage is reported to the company. IDAPA 31.01.41.502.01.b. If a telephone company does not restore service within the time required by the Rule, the company must credit the customer's account for an amount equal to the monthly rate for one month of local exchange service. *Id.* The rule requires telephone companies to keep monthly records of out-of-service reports and to notify the Commission if the company is not able to clear at least 90% of outages within the time required by the rule for a period of three consecutive months. IDAPA 31.01.41.502.03.

The Commission initiated a review of Telephone Customer Relations Rule 502 and update the rule, if appropriate, to recognize the changes that have occurred in the telecommunications industry since 1993. The Commission Staff convened a public workshop on April 30, 2012, to discuss Rule 502, and obtain information and expertise from industry representatives to recommend possible changes to the rule. The Commission served notice of the workshop on April 10, 2012, to all telecommunications providers with contact information on file with the Commission. Representatives from CenturyLink, Frontier Communications Northwest Inc. and Citizens Telecommunications Company of Idaho dba Frontier Communications of Idaho (Frontier), TDS Telecommunications Corp. (TDS), the Idaho Telecom Alliance (ITA), and Commission Staff attended the workshop.

The parties attending the workshop agreed to revise Rule 502, simplifying the rule and removing the reporting requirements and the credit to customers requirements. On May 4, 2012, the parties filed a Settlement Stipulation with the Commission. The rule as revised by agreement of the parties is the following:

502. REPAIR SERVICE STANDARDS (RULE 502).

01. Restoration of Service. When a telephone company providing local exchange service is informed by a customer of a service outage as described in Rule 500.02, the telephone company must restore service within forty-eight (48) hours after the report of the outage, except (a) for outages reported on Thursday, the company must restore service no later than the following Monday by 6:00 pm, and (b) for outages reported on Friday, Saturday or Sunday, the company must restore service no later than the following Tuesday by 6:00 pm. ()

02. Extenuating Circumstances. Following disruption of telephone service caused by natural disaster or other causes not within the telephone company's control and affecting large groups of customers, or in conditions where the personal safety of an employee would be jeopardized, the telephone company is required to use reasonable judgment and diligence to restore service, giving due regard for the needs of various customers. When a customer causes the customer's own service outage or does not make a reasonable effort to arrange a repair visit within the service restoration deadline, or when the telephone company determines that the outage is attributable to the customer's own equipment or inside wire, the telephone company is not required to meet the restoration timelines of Rule 502.01.

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03. Compliance Standard. Each month at least eighty percent (80%) of out-of-service trouble reports shall be cleared in accordance with Rules 502.01 and 502.02.

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The parties filed the Settlement Stipulation with the Commission and requested that the Commission approve it without alteration or modification. The parties further requested that the Commission's consideration of the Settlement Stipulation be processed by Modified Procedure with a 21-day comment period. The parties further recommended if the revised rule is approved by the Commission, that it be submitted to the Rules Coordinator for publication and promulgation as a revised rule.

STAFF REVIEW

The competitive character of the telecommunications industry has changed dramatically since the out-of-service rule was established in 1993. In 1993, the wireless industry was a nascent industry, considered more of a luxury item by most. Today that has changed significantly. According to FCC data, at the end of 2009 Idaho had 1.2 million wireless connections, far more than the wireline connections in the state. In addition to wireless competition, traditional telephone companies are seeing increased competition for VoIP providers such as cable television. Because this is a new and growing source of competition, good numbers are not available for Idaho but it is clearly a growing service.

Increased competition in Idaho telecommunication markets has had an adverse effect on Incumbent Local Exchange Carriers line counts and access minutes of use. According to the Idaho Universal Service Administrator's report, last year residential line counts decreased

approximately 11% and business lines increased by 1%.¹ There was approximately an 11% decrease in minutes of use from 2010 to 2011.² The five year average percentage changes have shown an 8% decline in residential lines and 1% increase in business lines, and the billed minutes of use for the same period has decreased by 4%.

It is against the backdrop that staff looked at the need to modify the Rule 502 given CenturyLink's petition. Idaho statute 62(605)(5b) gives the Commission authority over service quality for Title 62 companies and directs that such "requirements shall be technologically and competitively neutral." Given that the Commission has no authority over wireless and VoIP providers this is not an easy task.

In its negotiations, Staff attempted to reach a compromise that allowed the companies regulatory latitude while still providing consumer protection. Although the proposed rule does not provide for customers to be credited when there is an out-of-service condition, Staff believes that the current competitive pressure is sufficient incentive to drive quality service from the LECs. If a LEC fails to meet customer expectations, they may go to a competitive service as so many have recently.

Staff also realizes that some customers have no choice; they live in any area where neither wireless service nor VoIP is available. These areas are isolated and difficult to determine and it is impractical to try to develop a rule that addresses those areas alone.

The Commission received seven comments from customer's regarding the Settlement Stipulation. The customers are from Soda Springs, Idaho Falls, Saint Anthony, Hammett and Rigby. Of the seven comments received, two were not customers of CenturyLink, two were former employees and the rest were current customers who had similar concerns: the elimination of the credit for service outages and the extension of time to repair the outages. The main argument for the credit was to motivate companies to repair service outages in a timely manner. The customers are concerned that when service goes out there are no penalties and the Company may simply take its time to repair the outage, which could adversely affect the customers' ability

¹ 2011 Annual Idaho Universal Service Administrator Report. Commission Order No. 32336

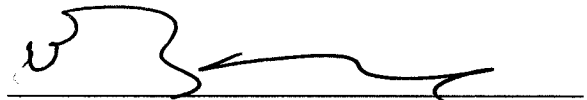
² 2011 Idaho Universal Service Fund Administrator Report.

to call emergency services and/or loss of business revenues. One customer in Hammett voiced concern that his cell service was spotty and he frequently lost power, which is necessary to keep a cell phone charged. Therefore, he is very dependent upon his landline service. Staff would like to remind the customers who experience service outages that this Commission will continue to take and investigate service quality complaints.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the Stipulation and grant an exemption to the existing Rule 502 to the companies that are parties to the Settlement Stipulation, and to any other company that subsequently requests an exemption, pending completion of the rulemaking process and the effectiveness of the revised Rule 502. The parties agreed, and the Commission may order, that any company granted an exemption will be bound by the terms of the revised Rule 502 during pendency of its enactment.

Respectfully submitted this 31st day of May 2012.



Weldon B. Stutzman
Deputy Attorney General

Technical Staff: Carolee Hall
Bev Barker

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CERTIFICATE OF SERVICE


I HEREBY CERTIFY THAT I HAVE THIS 31ST DAY OF MAY 2012, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. GNR-T-12-03, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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