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2011 DEC 22 PM 4:27
IDAHO PUBLIC
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December 22, 2011

VIA HAND DELIVERY

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

QWE-T-12-01
CEN-T-12-01
CGS-T-12-01

RE: Docket No. ~~CEN-T-11-~~

Dear Ms. Jewell:

Enclosed for filing with this Commission are an original and seven (7) copies of the **Petition of the CenturyLink Companies for Exemption from Rule 31.41.01.502.**

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") respectfully request that the Commission consider this Petition on modified procedure and expeditiously grant the relief requested herein to allow the Petitioners a permanent exemption from Rule 31.41.01.502. CenturyLink's Confidential Attachments A, which is filed under separate cover and with an Attorney's Certificate contains confidential information that supports the Petition.

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

Very truly yours,

Mary S. Hobson

Mary S. Hobson

Enclosure

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

PETITION OF THE CENTURYLINK COMPANIES FOR EXEMPTION FROM RULE 31.41.01.502	**Case No. ~~CTL-T-11-~~** QWE-T-12-01 CEN-T-12-01 CGS-T-12-01

THE CENTURYLINK COMPANIES' 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, file this Petition for Exemption from Rule 31.41.01.502 (Petition) on the grounds set out below.

BACKGROUND

This Petition is filed pursuant to IDAPA 31.41.01.003. CenturyLink requests a permanent exemption from the provisions of IDAPA 31.41.01.502 (Rule 502), which pertains to standards for restoration of voice services and customer credits. CenturyLink respectfully requests that the Commission review this Petition on an expedited basis.

CenturyLink seeks this exemption to obtain relief from the unusual and unreasonable hardships that result from the application of Rule 502 to the CenturyLink companies. These hardships arise from the profound changes that have occurred in the telecommunications industry in Idaho since the provisions of Rule 502 were adopted eighteen years ago, in 1993. Today, the majority of Idaho voice customers enjoy access to alternative forms of voice communication (e.g., wireless phones, cable telephony, Voice over Internet Protocol (VoIP) service) that substitute for the service regulated under this Rule. Significantly, virtually all of CenturyLink's competitors for these local exchange customers are not regulated under the Rule.

Competitive pressures, particularly from wireless technology, have a large impact on all three of the CenturyLink companies. In addition, CenturyTel of the Gem State, Inc ("Gem State") suffers from additional hardships related to the physical characteristics of its service territory that make compliance with Rule 502 uniquely burdensome.

STANDARD OF REVIEW

The Commission may grant exemptions if "unusual or unreasonable hardships result from the application of any of [its] rules"... IDAPA 31.41.01.003. The circumstances described in this Petition meet this standard. These include the anticompetitive impact on the three CenturyLink companies and the physical hardships for Gem State. In addition, as the discussion below will demonstrate, application of Rule

502 in the context of today's telecommunication market in Idaho results in regulation that conflicts with the mandate of the Idaho Legislature that any Commission regulation of Title 62 companies providing basic local exchange service be competitively and technologically neutral.

DISCUSSSION

A. Application of the provisions of Rule 502 to CenturyLink in today's Idaho telecommunications market is anticompetitive and conflicts with Idaho statute.

1. Since the adoption of Rule 502 Idaho's telecommunications market has changed dramatically.

Rule 502, which creates standards for interval for the restoration of voice service and the payment of customer credits where standards are not met, was initially adopted in 1993. At that time Qwest Corporation dba CenturyLink QC ("QC") was known as "US WEST Communications" and was virtually the sole provider of wireline voice service to the residence and small business customers residing in its service territory. The Federal Telecommunications Act of 1996 (Federal Act), which would irrevocably open local telecommunications markets to competition, had not yet been enacted. Cell phone use was then limited primarily to business leaders and their peers who carried heavy devices that resembled bricks with antennae,[1] and the use of personal computers to access the Internet was in its infancy. Local telephone companies were struggling to meet customer demand for new and additional telephone lines to provide "basic local exchange service," i.e., access lines to residential and small business customers with the associated transmission of two-way interactive switched voice communication within in local

[1] The FCC's wireless report showed a total of 16 million wireless subscribers in the entire nation in 1993. As of December, 2010, the same source reported 285 million subscribers.

calling area.[2] That basic local exchange service (which is the focus of Rule 502) was subject to economic regulation by the Commission under Title 61, Idaho Code.

The coming years brought significant change to Idaho's telecommunications market. QC's predecessor company reached the apex of its line penetration in 2001 with 544,640 lines in service in Idaho. Soon, however, the rapid adoption of wireless phones by users of all ages and economic levels, and the availability of competitive alternatives for wireline communications (especially for businesses and cable television customers) ushered in by the Federal Act, ended QC's role as the predominant provider of telephone services for residence and small business customers. As of June 2010, over 30% of Idaho households no longer had wireline service and relied solely on wireless technology for their voice needs.[3]

Meanwhile, any customer with a broadband connection can subscribe to VoIP[4] 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 Idaho[5]—a number that significantly exceeds the 455,000 incumbent local exchange carrier (ILEC) access lines in the state.[6] 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.

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[2] Idaho Code § 62-603(a).

[3] *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.

[4] 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.

[5] *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.

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

These competitive technologies have taken their toll on traditional ILEC voice services. By December, 2010, 67% of the total voice connections in Idaho were provided by wireless carriers, while another 9% were provided by non-incumbent wireline carriers such as competitive local exchange carriers (CLECs) and cable companies, and only 24% were provided by incumbent wireline providers such as the CenturyLink companies.[7] QC's total line count in Idaho declined from 544,640 in 2001 to 310,870 in 2010—a loss of 43%.

2. Idaho's regulatory statutes have also changed since the adoption of Rule 502.

When Rule 502 was adopted, incumbent providers such as the CenturyLink companies were the predominant providers of local voice service. Very few customers used wireless services and most had no alternative for voice communication in the event their traditional phone line suffered a service outage. Customer reliance on voice technology was also significantly greater at that time since the Internet had not yet become a widespread means of personal and business communication. In addition, in 1993, virtually all[8] voice services offered to residence and small business customers remained subject to full economic regulation under Title 61, Idaho Code.[9] In this context, Commission regulation of restoration of voice service intervals and customer credits where standards were missed made sense. Customers' voice options were few or nonexistent at that time, and the Commission was in a position to set prices (charged to a

[7] Id., tables 8 and 17

[8] The exceptions were cooperative telephone companies whose customers also owned the companies providing service.

[9] For most companies this meant rate of return regulation, including price setting by the Commission. However QC's predecessor and perhaps others were able to persuade the Commission to adopt an Alternative Form of Regulation (AFOR). Nevertheless even under an AFOR, prices for basic voice service were set by the Commission and the entire rate structure could be reviewed under rate of return principles under appropriate circumstances.

stable or growing group of customers) that allowed companies to achieve revenue streams that were sufficient to pay the costs of maintaining the standards adopted.

In the intervening years, however, the technological changes already noted provided many new options for customers to meet their voice communications needs. Given the availability of these options, market forces, as opposed to Commission regulation, began to drive telecommunications companies' revenues, and it became clear market forces should also drive the pricing and other product decisions of these companies. Recognizing this, in 2005 the Idaho Legislature enacted an amendment to the Idaho Telecommunications Act of 1988 to authorize incumbent local exchange carriers to elect to have all services (including basic local exchange service) excluded from economic regulation under Title 61, Idaho Code.[10] In making this change the Legislature specifically spoke to the level of Commission regulation it deemed appropriate for basic local service offered by companies no longer subject to Title 61, regulation. Idaho Code § 62-605 (5) (b) provides:

> The commission shall have the continuing authority to determine the noneconomic regulatory requirements relating to basic local exchange service for all telephone corporations providing basic local exchange service including but not limited to, such matters as service quality standards, . . . which requirements shall be technologically and competitively neutral.

It is this notion of "technological[] and competitive[] neutral[ity]" that is violated by the application of Rule 502 to QC in today's environment. As the number of lines lost in QC's Idaho service territory demonstrates, QC is facing intense competition for

[10] Although CenturyTel of the Gem State, Inc. and CenturyTel of Idaho, Inc. have not yet elected to remove their services from Title 61, Idaho Code, to regulation under Title 62, the unfair burden on these companies' ability to compete is parallel to that faced by QC. Regardless of their Title 61 regulatory status, Gem State and CenturyTel of Idaho face competition from wireless, and possibly cable and VoIP providers, who are not subject to regulation under Rule 502 and are therefore free to establish their own service priorities and customer loyalty initiatives.

customers. However the greatest competitive threat to QC and the other CenturyLink companies, wireless telephony, is not regulated by the Commission. Wireless, cable and VoIP competitors are simply not subject to the performance standards, or the customer credit requirements imposed by Rule 502. Indeed, as described above, only 24%[11] of all of Idaho's voice connections in 2010 were incumbent ILEC lines subject to regulation under Rule 502.[12]

In light of this disparity of treatment between the CenturyLink companies and their competitors, application of Rule 502 to CenturyLink under the current market conditions in Idaho amounts to an "unusual or unreasonable hardship[]" that justifies an exemption under IDAPA 31.41.01.003.

CenturyLink recognizes, however, that an exemption of this scope for the largest ILEC in Idaho as well as the two other CenturyLink companies may itself constitute a significant change in the regulatory landscape in Idaho. Therefore, CenturyLink is willing to participate in a rulemaking to address the service quality rules in a more comprehensive context, should this Commission deem such an effort appropriate in the future.

However, this present request for an exemption for the CenturyLink companies is not simply a philosophical question of fairness; the need is immediate and pressing as the further discussion below will demonstrate.

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[11] As noted above, in 2010 70% of all voice connections in Idaho were wireless. Ten percent of the total connections were served by either cable companies or CLECs. In that market segment only those connections provided CLECs would come within the purview of the Commission's noneconomic regulation under Title 62, Idaho Code.

[12] In the non-ILEC market segment, only those connections provided by CLECs would come within the purview of the Commission's noneconomic regulation under Title 62, Idaho Code.

B. For CenturyLink compliance with Rule 502 amounts to an unreasonable hardship that compromises its ability to serve customers.

1. Since 1993 customers' dependence upon traditional wireline service has diminished significantly.

The degree to which residence and small business customers in 1993 depended on incumbent local exchange carrier (ILEC) basic local exchange service may have justified a Commission regulation that both set a standard for restoration for wireline service and provided an economic incentive for maintaining that standard in the form of large customer credits at that time. Today, however, a substantial majority of basic local service customers are not cut off from communication—are not "out-of-service"—in the event their wireline telephone is not working. The FCC reported that in 2009 wireless penetration in all Idaho economic areas studied was between 80 and 90%.[13] Most 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.[14] 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 ILEC access lines in Idaho.[15] Further, in its latest report, the National Center for Health Statistics (NCHS) reported that only 12.9% of landline households in the United States

[13] 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.

[14] *See* http://www.census.gov/popest/data/housing/totals/2009/index.html 2010 Housing unit data is not yet available.

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

did not have a wireless phone.[16] Thus, for the vast majority of wireline customer 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.

Even for the minority of customers that do not purchase their own wireless connection, the ubiquity of wireless phones provides options that were not available in 1993. When wireline services were the only form of voice communications, only a telephone company employee or contractor could bring relief by restoring service. Today a guest, relative, or caregiver can bring voice communication capability to the customer who is out-of-service by simply offering a wireless phone for an important call or even loaning a phone to the out-of-service customer.

Similarly, the explosion of broadband services has changed the impact of a CenturyLink voice service outage on Idaho customers. If the customer has a broadband connection that is not impacted by the outage, the customer may have the ability to communicate via access to the Internet and the use of VoIP services. As noted above, over 58% of Idaho households had a broadband connection as of December 2010, when there were 706,000 broadband connections as compared to only 455,000 ILEC access lines. While many may use VoIP to place voice calls, others may rely on the Internet in countless ways to gain information, order goods, schedule meetings or otherwise communicate through email. Regardless of how they use broadband, such customers are not out-of-service in the way that was contemplated in 1993 when Rule 502 was adopted.

The development and widespread adoption of alternative communications technologies by customers destroys the basic assumption supporting Rule 502, i.e., that

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[16] 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.

where wireline service outages occur, customers cannot communicate until service is restored. The presence of wireless and broadband technologies mean most customers are not out-of-service and do not depend solely on restoration of their wireline service to communicate. Under these circumstances, application of Rule 502 to the CenturyLink companies who have suffered huge competitive losses to providers of these technologies who are not themselves subject to regulation, amounts to an unusual or unreasonable hardship for which the Commission should grant an exemption.

2. The economics of the changing telecommunications industry in Idaho do not support Rule 502's exclusive focus on voice restoration. Nor is such focus consistent with Idaho Code § 62-605 (5)(b).

In the second quarter of 2010 CenturyLink was actually serving only 44.27% of the Idaho customer locations (commercial and residential) to which its facilities are available.[17] By the second quarter 2011, that percent of customer locations served had decreased to 40.88% of the available customer locations on its network.[18] In other words, in almost 60% of the locations where CenturyLink has facilities *available* for use, the facilities are *not* in use. This reflects a substantially different business reality for CenturyLink today as compared to the environment in 1993, when its predecessor companies were providing service to a much higher percentage of the customer locations they passed.

Rule 502 forces CenturyLink to dedicate resources to the specific activities that are required to quickly restore service outages for voice customers, but this rule ignores the realities of competitive industry in which these companies now operate. In 1993 when the Rule was adopted, installation and maintenance of the facilities used to provide

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[17] *See* Confidential Attachment A filed separately and under an Attorney's Certificate pursuant to IDAPA 31.01.01.067.03.
[18] Id.

voice services was the primary focus of the telecommunications industry. Today, the CenturyLink companies must make significant capital expenditures to expand the reach, speed and capabilities of their broadband network so they can attract and retain broadband customers and remain competitive in the marketplace. CenturyLink must also balance the allocation of network resources between its voice and broadband network at the same time its overall customer base is declining.

On the employee side of the equation CenturyLink is engaged in a similar balancing act. As the numbers of customers continues to decline, CenturyLink must adjust its work force downward even though the overall size and sophistication of its overall network is increasing. This means that a smaller work force must be deployed to meet the needs of both the traditional voice customers and those customers demanding the latest broadband capabilities. CenturyLink must be ready to maintain the entire network, and be ready to provide voice and broadband service on demand.

Application of Rule 502 to the CenturyLink companies serves to skew the delicate balance the companies must strike in deploying their employee resources. In early 2011 QC reported that it had missed the Rule 502 standards three consecutive months (November 2010, December 2010 and January 2011). In August 2011, QC met the standards, but only by a narrow margin after missing them in June and July. QC thereby avoided the need to again report three consecutive months of performance below the Rule 502 standards. In short, QC is having difficulty consistently meeting the requirements of Rule 502 for restoration of service.[19]

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[19] Gem State's difficulties in meeting the standard are described in section B.3 below.

QC's efforts to meet the standard in August are illustrative of the imbalance created by the Rule. In August QC had to focus its network resources primarily upon meeting the Rule 502 standard at the expense of offering competitive installation intervals for its broadband service. In some areas the intervals for installing High Speed Internet (HSI) were moved out to over 3 weeks, as technicians were focused on performing the duties necessary to meet the restoration standard. Meanwhile, Cable One, a fierce competitor for broadband customers, was advertising same-day installations. Without question, some customers will choose not to wait for QC to install based on these installation intervals and will purchase service from the competitor who can more rapidly fill their service request. QC's ability to respond to such competition is adversely impacted by the regulatory requirement of Rule 502.

This impact on the CenturyLink companies' ability to compete is exacerbated by the fact that cable, wireless and VoIP competitors are not subject to the regulatory requirements of Rule 502. Unfettered by the constraints of the Rule, these competitors are free to focus on what customers tell them is important and exercise independent business judgment in how best to serve them. They are free to allocate scarce resources to whatever priorities they believe will result in a competitive advantage. Cable One's same-day installation offer is an example of how that competitor chooses to differentiate itself and meet customer expectations. CenturyLink needs the ability to balance its repair and installation resources to meet customer priorities as its competitors are doing. If QC must continue to comply with Rule 502, it is unlikely to be able to move toward the customer-friendly options its competitors are offering.

More importantly, for QC the application of Rule 502 to wireline voice providers, but not to wireless, cable and VoIP providers, runs afoul of Idaho Code § 62-605 (5)(b)'s requirement that Commission regulation be technologically and competitively neutral. The evolution of the telecommunications industry has brought a once competitively neutral regulation to the point where its impact is simultaneously competitively harmful to CenturyLink and irrelevant to the large number of customers whose service is not provided by a traditional wireline carrier. This development renders the application of Rule 502 to the CenturyLink companies, an "unusual or unreasonable hardship[]" that justifies an exemption under IDAPA 31.41.01.003.

3. For Gem State the physical characteristics of its service territory impose unique hardships in complying with Rule 502.

In August of this year, CenturyTel of the Gem State, Inc., (Gem State) gave notice to the Commission that its records indicated that the of out-of-service trouble reports cleared within the interval requirements of Rule 502 had not been met for the months of April, May and June, 2011. In a confidential filing that accompanied Gem State's notice, the actual percent of restorations meeting the interval requirements each month was shown to be substantially below 90%. Similar results were also provided under confidential cover for July and August 2011, and a notice pertaining to September, October and November is in its final stages of preparation.

For Gem State, the physical characteristics of its service territory make compliance with the requirements of Rule 502 uniquely burdensome. Gem State serves a total of 1026 access lines in a geographically large service territory that includes the Duck Valley Indian reservation on the southwest border of state, the communities of Grand View and Bruneau, Idaho, and a non-contiguous service area surrounding the community of Richfield in south-central Idaho. Richfield is located 110 miles from Grand View where the Gem State service technicians are located. It takes a technician an average four hours simply for drive time between Grand View and Richfield to attend to a service request.

Given the small number of access lines and the fact that a relatively small number of trouble reports can impact the percent of service restorations achieved within the required interval, Gem State has found it impossible to meet the requirements of Rule 502, even on a sporadic basis. This problem has been exacerbated by the fact that CenturyLink service technicians in nearby QC exchanges are unionized whereas those in the Gem State territory are not. To date, management has been unable to negotiate an agreement with the union that would allow technicians from QC to help restore service in the Gem State service area.

Gem State customers, however, have not advised either the company or the Commission that the level of service in the territory is unsatisfactory. Few to none of the customers in any of the CenturyLink companies have chosen to complain about the interval for service restoration. This is particularly noteworthy, however, for those customers in Gem State who have experienced restoration intervals that are longer on a more consistent basis than any other CenturyLink customer group.

For these reasons, CenturyLink respectfully requests that the unique characteristics of the Gem State service territory, be considered in granting an exemption from Rule 502 under IDAPA 31.41.01.003.

C. Rule 502 is no longer meeting customer needs or acting as an appropriate incentive.

1. Rule 502 no longer reflects customer needs or priorities.

Rule 502 requires that CenturyLink dedicate its resources to rapid restoration of voice service whether that is important to the customer or not. Looking back to 1993 when the Rule was adopted, the assumption that voice service restoration was the customer's highest priority may have been largely justified. However, today customers have other options to traditional basic local exchange voice service and this has changed customers' priorities. Today, many customers view mobility via a wireless phone as a priority and may not be as concerned with fast wireline voice service restoration. Other customers view HSI as a priority, and may see voice service as a by-product or feature of the customer's broadband communications link. These customers may view quick broadband installation as more important than quick wireline voice service restoration. Today's customer priorities are being expressed in the marketplace where demand for broadband services is growing while wireline voice connections continue to decline.

Further evidence of customers' priorities (and their relative tolerance of wireline voice service outages) may be found in the fact that CenturyLink's internal complaint office and the Commission's Staff have seen very few complaints concerning slow restoration of voice service. Nor is there any evidence that customer complaints increased as performance fell below the Rule 502 standard as in the November 2010-January 2011 interval reported to the Commission by QC or at anytime during 2011 for Gem State.

CenturyLink submits that customers are not complaining to the Commission for a number of reasons. First, many customers do not consider themselves out-of-service because they have other options for voice communication such as their wireless phones, and their broadband services. These customers may be more interested in seeing that their other services such as their HSI are functioning. In addition, customers who are dissatisfied with their wireline voice service have competitive options. They need not bother to complain to the Commission since they can simply disconnect their service and move to a wireless or cable option. While this widespread adoption of other technologies poses a serious threat to CenturyLink, it also demonstrates that Commission regulation of service restoration is no longer needed to protect customers.

CenturyLink needs the ability to balance its repair and installation work to meet customer needs as it perceives them. Rule 502's focus on a single assumed customer need, which in many cases no longer reflects customer priorities and preferences, places CenturyLink at a competitive disadvantage.

2. Rule 502 is no longer required to incent appropriate customer service, is not tailored to compensate those actually out-of-service, and is ineffective in promoting customer loyalty.

If an exemption is granted from the requirements of Rule 502, the CenturyLink companies will remain motivated through market pressures to restore service within a reasonable time, due to an overriding need to satisfy and retain customers. While CenturyLink can no longer afford to look at customer needs through the single lens of a regulatory standard set nearly 20 years ago, this is not to say that CenturyLink will not have incentive to provide good service to voice customers.

CenturyLink is well aware that dissatisfied customers can, and will, move to a competitive cable, wireless or VoIP service to meet their voice calling needs if their needs are not met. Once those customers are lost, they are unlikely to return or to order other services from CenturyLink. From an economic and business perspective, losing a customer to a competitor is a considerably more serious consequence to CenturyLink than reporting a standard violation or even paying a Rule 502 customer credit. Thus, Rule 502 no longer provides a meaningful incentive to the CenturyLink companies. Instead, today the competitive marketplace provides the incentive for the companies to provide each service at the level of quality demanded by customers.

Furthermore, Rule 502's requirement that all customers receive a full month's service credit when restoration of their service is delayed is not tailored to assure that the credit is being applied to customers who are actually out-of-service. The vast majority of customers who can use their wireless or broadband technologies while their wireline service is being restored have not lost voice communication capability and are therefore not out-of-service in the manner contemplated when Rule 502 was adopted. Requiring a full month's service credit for customers who have not experienced a loss of ability to communicate imposes an unreasonable hardship on the CenturyLink companies where other, more significant marketplace incentives are also present.

Finally the Rule 502 customer credit is an ineffective means of retaining customer loyalty. If a customer is unhappy about the interval for restoration of his broadband service, the fact that he may coincidentally receive a credit for another, lower priority, service is unlikely to bring satisfaction. And, if the customer is dissatisfied with restoration of the voice service itself, she is free to keep her credit while moving to an unregulated voice alternative such as wireless. In that instance, the competitive loss to CenturyLink is compounded by a regulatory penalty of a credit payable to a customer who will not continue to do business with CenturyLink.

CONCLUSION

Granting CenturyLink a permanent exemption from Rule 502 will permit it to better serve customers by providing the flexibility to respond to customer needs for all of the services it provides. Nearly two decades that have passed since the Rule was adopted, and as described above, the marketplace has changed significantly with the growth of wireless and broadband-based competition. These changes have rendered the application of Rule 502 to the CenturyLink companies an "unusual or unreasonable hardship" under IDAPA 31.41.01.003.

- Customers now have alternatives to basic local exchange voice service, which they have adopted to the point that the vast majority of wireline customers are not "out-of-service" if the basic exchange wireline service is not working.
- Rule 502 forces CenturyLink to allocate scarce resources to activities that maybe out of step with customer priorities. The rule declares restoration of voice service within certain intervals to be the number one priority, but customers may believe faster broadband installation is a greater priority.
- CenturyLink directly competes with wireless and cable providers. Yet these competitors are not subject to Rule 502, which places CenturyLink at a distinct disadvantage to its most successful competitors.
- Rule 502's customer credit requirements pale in comparison to the economic incentives at work in the marketplace that will assure the CenturyLink companies meet customer needs or risk losing these customers entirely. Meanwhile, the application of the credit requirement in the present competitive environment is not

tailored to compensate those actually out-of-service, and is ineffective in promoting customer loyalty.

REQUEST FOR RELIEF

CenturyLink respectfully requests that the Commission consider this Petition on modified procedure and expeditiously grant the relief requested herein to allow CenturyLink a permanent exemption from Rule 502.

Submitted this 22d day of December, 2011.

Respectfully submitted,

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