

**Lance J.M. Steinhart, P.C.**

Attorneys At Law  
1725 Windward Concourse  
Suite 150  
Alpharetta, Georgia 30005

Also Admitted in New York  
Email: lsteinhart@telecomcounsel.com

Telephone: (770) 232-9200  
Facsimile: (770) 232-9208

December 28, 2012

**VIA OVERNIGHT DELIVERY**

Ms. Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
Boise, Idaho 83702

YMX-T-12-01

RECEIVED  
2012 DEC 31 AM 10:03  
IDAHO PUBLIC  
UTILITIES COMMISSION

Re: YMax Communications Corp. – ETC Designation

Dear Ms. Jewell:

Enclosed please find for filing an unbound, unstapled and duplexed original and three (3) stapled and duplexed copies of YMax Communications Corp.'s Application for Designation as an Eligible Telecommunications Carrier within the State of Idaho.

I have also enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed, self addressed, postage prepaid envelope. If you have any questions or if I may provide you with additional information, please do not hesitate to contact me.

Respectfully submitted,



Lance J.M. Steinhart  
Lance J.M. Steinhart, P.C.  
Attorneys for YMax Communications Corp.

cc: Shelby Ramsey

**BEFORE THE  
IDAHO PUBLIC UTILITIES COMMISSION**

**PETITION OF** )  
**YMAX COMMUNICATIONS CORP.** )  
**FOR DESIGNATION AS AN ELIGIBLE** ) **DOCKET NO.**  
**TELECOMMUNICATIONS CARRIER** )

**PETITION FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER**

YMax Communications Corp. (“YMAX”, “Applicant” or the “Company”), pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)<sup>1</sup> and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),<sup>2</sup> and the rules and regulations of the Idaho Public Utilities Commission (“Commission”),<sup>3</sup> hereby applies to the Commission for Designation as an Eligible Telecommunications Carrier (“ETC”) throughout the Qwest Corporation d/b/a CenturyLink (CenturyLink) service area (the “Designated Service Area”) for the purpose of receiving federal universal service support. The Company is seeking only low income support, and is not requesting high cost support. As demonstrated below, YMAX satisfies all of the statutory and regulatory requirements for designation as an ETC in the Designated Service Area, including the Commission’s ETC Rules and the new requirements outlined in the FCC’s *Lifeline and Link Up Reform Order*.<sup>4</sup>

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<sup>1</sup> 47 U.S.C. § 214(e)(2).

<sup>2</sup> 47 C.F.R. §§ 54.101-54.207.

<sup>3</sup> See Case No. WST-T-05-1, Order No. 29841.

<sup>4</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline and Link Up Reform Order*”).

Furthermore, designation of YMAX as an ETC in the Designated Service Area will serve the public interest. Accordingly, YMAX respectfully requests that the Commission grant this Petition.

All correspondence, communications, pleadings, notices, orders and decisions relating to this Petition should be addressed to:

Lance J.M. Steinhart  
Lance J.M. Steinhart, P.C.  
Attorneys for Applicant  
1725 Windward Concourse, Suite 150  
Alpharetta, Georgia 30005  
Telephone: 770-232-9200  
Facsimile: 770-232-9208  
E-Mail: lsteinhart@telecomcounsel.com

## **I. Background**

1. YMAX is a Delaware Corporation.<sup>5</sup> A copy of the Company's Certificate of Incorporation is on file with the Commission and incorporated herein by reference. The Company was issued a Certificate of Public Convenience and Necessity authorizing it to provide local exchange services within the State of Idaho in Case No. YMX-T-06-01, Order No. 30110 dated August 7, 2006. The principal office of the Company is located at 5700 Georgia Ave, West Palm Beach, Florida 33405. The Company will provide local exchange services in the Designated Service Area using its own facilities.

2. As set forth in Section 214(e)(2) of the Act, the Commission "shall upon its own motion or upon request designate a common carrier that meets the requirements of [Section 214(e)(1)] as an eligible telecommunications carrier for a service area designated by the State

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<sup>5</sup> The Company was incorporated in the State of Delaware on May 24, 2005

commission.”<sup>6</sup> Upon designation as an ETC, the carrier shall be eligible to receive universal support in accordance with Section 254 of the Act.<sup>7</sup>

3. The requirements for designation as an ETC set forth in Section 214(e)(1) are that the carrier must:

- (A) offer the services that are supported by Federal universal support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier); and
- (B) advertise the availability of such services and the charges therefore using the media of general distribution.<sup>8</sup>

**II. YMAX Satisfies the Requirements for Designation as an ETC to Serve the Designated Service Area**

4. YMAX is a common carrier as that term is defined in the Act.<sup>9</sup> The Company will provide the supported services in the Designated Service Area.

5. YMAX will offer all of the supported services enumerated under Section 254(c) using its own facilities. Accordingly, the Company satisfies the requirement set forth in Section 214(e)(1)(A).

6. The services that are supported by Federal universal support mechanisms under section 254(c) are enumerated at 47 C.F.R. § 54.101(a). These services are:

- a) Voice grade access to the public switched telephone network (PSTN).

"Voice grade access" is defined as a functionality that enables a user of

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<sup>6</sup> 47 U.S.C. § 214(e)(2); *see* 47 C.F.R. § 54.201(b) (FCC Rules citing the Act’s requirements).

<sup>7</sup> 47 U.S.C. § 214(e)(1).

<sup>8</sup> *Id.*

<sup>9</sup> *See* 47 U.S.C. § 153(10) (“the term ‘common carrier’ or ‘carrier’ means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy . . .”).

telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. YMAX is able to originate and terminate telephone service for all of its subscribers;

- b) Local usage. As part of the voice grade access to the PSTN, an ETC must provide minutes of use for local service at no additional charge to end-users. The Company's service includes unlimited local usage that allows customers to originate and terminate calls within the local calling area without incurring toll charges;
- c) Access to emergency services. "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems. The Company will provide its customers with access to these services;
- d) Toll limitation for qualifying low-income consumers. Toll Blocking allows customers to block the completion of outgoing toll calls. Toll Control allows the customer to limit the dollar amount of toll charges a subscriber can incur during a billing period. YMAX provides qualifying Lifeline customers with access to toll limitation.<sup>10</sup> The

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<sup>10</sup> On December 30, 1997, the FCC issued an order clarifying its definition of "toll limitation" services as either toll blocking or toll control and requires carriers to offer only one, not necessarily both, of these services to be designated as an ETC.

Company will seek toll limitation service (“TLS”) reimbursement from the USF;

- e) While no longer required by 47 C.F.R. § 54.101(a), YMAX provides dual tone multi-frequency (“DTMF”) signaling to expedite the transmission of call set up and call detail information throughout the network, single party service for the duration of each telephone call and not multi-party (or “party-line”) services, access to operator services, the ability to make interexchange, or long distance, telephone calls, and access to directory assistance services.

7. YMAX will advertise the availability of the above-referenced services and the charges for those services in the Designated Service Area using media of general distribution and in a manner reasonably designed to reach those likely to qualify for those services, as required by FCC Rules.<sup>11</sup> Accordingly, the Company satisfies the requirement set forth in Section 214(e)(1)(B).

### **III. Area for Which ETC Designation Is Requested**

8. YMAX requests ETC designation throughout all CenturyLink exchanges, as identified in Exhibit 3 attached hereto. YMAX does not seek certification as an ETC in any areas served by rural telephone companies.

### **IV. YMAX Satisfies the Additional Requirements for Designation as an ETC**

9. In accordance with 47 C.F.R. § 54.202(a)(1)(i), Applicant commits to comply with the service requirements applicable to the support that it receives. As a common carrier

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<sup>11</sup> See 47 C.F.R. § 54.201(d)(2).

seeking designation as an ETC for low-income support only, Applicant is not required to submit a network improvement plan.<sup>12</sup>

10. An ETC Applicant must demonstrate its ability to remain functional in emergency situations (47 CFR §54.202(a)(2)). Since Applicant is providing service to its customers through the use of its own redundant facilities, Applicant will provide to its customers the same ability to remain functional in emergency situations as currently provided by the ILECs to their own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, rerouting of traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

11. An ETC Applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards (47 C.F.R § 54.202(a)(3)). Applicant will satisfy all such standards. As part of its certification requirements for providing local exchange services, Applicant must abide by the service quality and consumer protection rules. In addition, Applicant commits to reporting information on consumer complaints per 1,000 lines on an annual basis consistent with 47 C.F.R. § 54.422(b)(2).

12. FCC Rules no longer require an applicant for ETC status to acknowledge that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.<sup>13</sup>

13. An applicant for ETC designation is no longer required to demonstrate that it offers a local usage plan that is "comparable" to the plan offered by the ILEC in the relevant

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<sup>12</sup> See *Lifeline and Link Up Reform Order* at ¶ 386; see also 47 C.F.R. § 54.202(a)(1)(ii).

<sup>13</sup> See *id.*

service territory.<sup>14</sup> Nevertheless, Applicant will offer a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.

14. In accordance with 47 C.F.R. § 54.202(a)(4), Applicant demonstrated its financial and technical capabilities in Case No. YMX-T-06-01 referenced above.

15. The Company will provide reduced billing to Lifeline-eligible customers throughout its designated service area. The reduction will include the maximum federal Lifeline subsidy amount.

16. YMAX will certify a customer's initial and annual eligibility for Lifeline in accordance with 47 C.F.R. § 54.410.

17. In 47 C.F.R. 54.422, the FCC has identified certain annual reporting requirements in connection with the annual certification of ETCs as follows:

- (a)(1) The company name, names of the company's holding company, operating companies and affiliates, and any branding (a "dba," or "doing-business-as company" or brand designation) as well as relevant universal service identifiers for each such entity by Study Area Code. For purposes of this paragraph, "affiliates" has the meaning set forth in section 3(2) of the Communications Act of 1934, as amended; and
- (2) Information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.
- (b)(1) Detailed information on any outage in the prior calendar year, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which the eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect
  - (i) At least ten percent of the end users served in a designated service area; or
  - (ii) A 911 special facility, as defined in 47 CFR 4.5(e).

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<sup>14</sup> See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a).

(iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:

- (A) The date and time of onset of the outage;
- (B) A brief description of the outage and its resolution;
- (C) The particular services affected;
- (D) The geographic areas affected by the outage;
- (E) Steps taken to prevent a similar situation in the future; and
- (F) The number of customers affected.

- (2) The number of complaints per 1,000 connections (fixed or mobile) in the prior calendar year;
- (3) Certification of compliance with applicable service quality standards and consumer protection rules;
- (4) Certification that the carrier is able to function in emergency situations as set forth in § 54.202(a)(2).

YMAX is committed to comply with all of the applicable annual reporting requirements that are required of it as a recipient of low-cost support, and in the event it becomes eligible for high cost support, will comply with 47 CFR 54.313, including the requirement to provide a five-year spending plan.

#### **V. Granting YMAX's Petition Will Serve the Public Interest**

18. Congress requires that the Commission grant competitive ETC applications in non-rural areas.<sup>15</sup> No specific public interest test is mentioned, as is the case for areas served by rural telephone companies.<sup>16</sup> Thus, the Act provides that the Commission "shall" designate YMAX as an ETC upon finding that the company meets the requirements of Section 54.101(a) and Section 54.202(a) of the FCC's Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)).

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<sup>15</sup> See 47 U.S.C. 214(e)(2).

<sup>16</sup> See *Id.*

19. Grant of the Company's Petition will serve the public interest and the market as a whole by promoting additional deployment of its unique service offering to the unserved and underserved exchanges in the Designated Service Area and will allow the Company to participate in and offer Lifeline to qualifying consumers throughout these same exchanges. As relevant to the Commission's public interest inquiry, the Company's presence will undeniably include a benefit of increased customer choice, as its service is unique, and serves a specific sector of the public who might well not otherwise be able to obtain wire line service from traditional providers.

20. The unique advantages and disadvantages of the Company's service offering are as follows:

The services are offered to customers on a monthly basis. Services are provided without requiring a security deposit or gaining credit worthiness. Customers have the opportunity to choose products based on current needs and change products if necessary on a monthly basis without incurring costly fees. The Company's offering provides long distance calling which eliminates the billing of additional monthly fees. Services can be discontinued simply by nonpayment of the next month's services without penalty or disconnection fees.

21. A central purpose of the Telecommunications Act of 1996 was to "promote competition and reduce regulation ... [thereby securing] lower prices and higher quality services ... and encourage the rapid deployment of new telecommunications technologies."<sup>17</sup> Designation of YMAX as an ETC would further these goals. Granting ETC status to YMAX would allow the Company to obtain federal universal service support, which it will use to offer

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<sup>17</sup> The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, 56 (1996).

innovative telecommunications services at competitive prices to consumers in the Designated Service Area.

22. YMAX will publicize the availability of Lifeline services in a manner reasonably designed to reach those likely to qualify for those services. Accordingly, more low-income Idaho residents will be made aware of the opportunities afforded to them under the Lifeline program and will be able to take advantage of those opportunities by subscribing to the Company's service.

23. Since YMAX's service is of particular interest to credit-challenged customers—many of whom are low income—who generally cannot obtain service from the incumbent carrier, the granting of ETC status is clearly in the public interest; access to Lifeline can be critically important to a significant portion of the eligible low income consumers. To Applicant's knowledge, Lifeline services are not being sufficiently advertised and made available to eligible low income consumers in the Designated Service Area. Statistics suggest that there are many eligible customers who are not yet aware of the programs. According to the best data available to Applicant, as of December 31, 2010, only between 10-20% of consumers eligible for Lifeline Services in the State of Idaho were being provided such services.<sup>18</sup> When additional carriers enter the market with programs designed specifically for such customers, it increases the likelihood that eligible customers will become generally aware of these valuable options for telecommunications service.

24. Applicant hereby asserts its willingness and ability to comply with all the rules and regulations that the Commission may lawfully impose upon Applicant's provision of service

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<sup>18</sup> See attached Exhibit 2, 2010 Lifeline Participation Rates by State, which was obtained from the Universal Service Administrative Company ("USAC"), an independent not-for-profit corporation designated as the administrator of the federal Universal Service Fund by the FCC.

contemplated by this Petition. Upon Commission request, Applicant is prepared to answer questions or present additional testimony or other evidence about its services within the state.

25. Applicant does not have any pending action or final unsatisfied judgment or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the Petition.

26. Applicant is a contributor to and in good standing with the Universal Service Fund and does not have any annual reports or assessment fees that are overdue, but is not drawing from the fund since it cannot receive universal service funds until it is designated an ETC.

**VI. Relief Requested**

For the foregoing reasons, YMAX respectfully requests that the Commission grant its Petition and Designate the Company as an Eligible Telecommunications Carrier for the Designated Service Area.

Respectfully submitted,

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Lance J.M. Steinhart  
Georgia Bar No. 678222  
Lance J.M. Steinhart, P.C.  
1725 Windward Concourse, Suite 150  
Alpharetta, Georgia 30005  
Telephone: 770-232-9200  
Facsimile: 770-232-9208  
E-Mail: lsteinhart@telecomcounsel.com

*Attorneys for YMax Communications Corp.*

**List of Exhibits**

- |                  |   |
|------------------|---|
| <b>Exhibit 1</b> | <b>Certification</b>                              |
| <b>Exhibit 2</b> | <b>2010 Lifeline Participation Rates by State</b> |
| <b>Exhibit 3</b> | <b>Wire Centers</b>                               |

**EXHIBIT 1**

**Certification**

State of Florida )  
 )  
County of Palm Beach )

### Certification

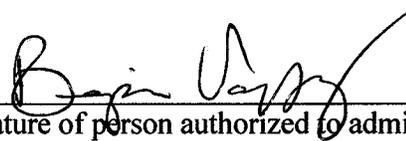
Personally appeared before the undersigned, an officer duly authorized to administer oaths, Peter Russo, who first being duly sworn, deposes and states that he is the Chief Financial Officer of YMax Communications Corp., Applicant in this application, and has read the same and knows the contents thereof, and confirms that the statements made herein are true to the best of his knowledge and belief.

Dated: 12/19/12

  
\_\_\_\_\_  
Peter Russo, Chief Financial Officer

Subscribed and sworn to before me this 18 day of Dec 2012.

(Notary Seal)

  
\_\_\_\_\_  
(Signature of person authorized to administer oath)

My Commission Expires: 9-14-2015

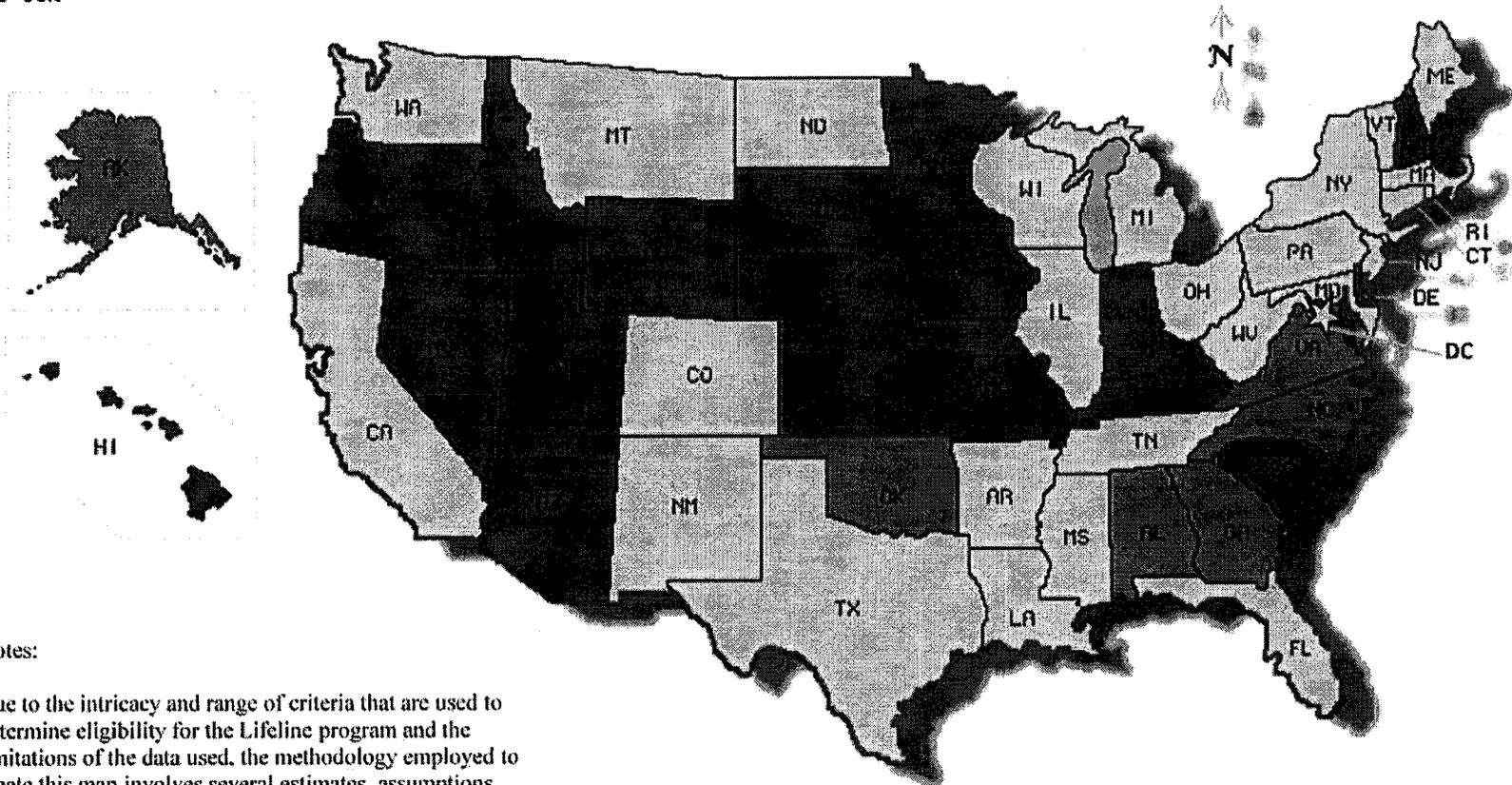
 BENJAMIN VANDERPLOEG  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE130289  
Expires 9/14/2015

**EXHIBIT 2**

**2010 Lifeline Participation Rates by State**

## 2010 Lifeline Participation Rates by State

- - Below 10%
- - 10% - 20%
- - 20% - 50%
- - Above 50%



**Notes:**

Due to the intricacy and range of criteria that are used to determine eligibility for the Lifeline program and the limitations of the data used, the methodology employed to create this map involves several estimates, assumptions, simplifications, and omissions. Therefore, the rates generated on this map should be treated as estimates only.

**EXHIBIT 3**

**Wire Centers**

STATE	STUDY AREA CODE	ILEC	WIRE CENTER CLLI	WIRE CENTER NAME
ID	475103	QWEST	AFTNWYMA	AFTON
ID	475103	QWEST	AMFLIDMA	AMERICAN FALLS
ID	475103	QWEST	BLFTIDMA	BLACKFOOT
ID	475103	QWEST	BLSSIDMA	BLISS
ID	475103	QWEST	BNCRIDMA	BANCROFT
ID	475103	QWEST	BOISIDMA	BOISE MAIN
ID	475103	QWEST	BOISIDNW	BOISE NORTHWEST
ID	475103	QWEST	BOISIDSW	BOISE SOUTHWEST
ID	475103	QWEST	BOISIDWE	BOISE WEST
ID	475103	QWEST	BRLYIDMA	BURLEY
ID	475103	QWEST	BUHLIDMA	BUHL
ID	475103	QWEST	CLWLIDMA	CALDWELL
ID	475103	QWEST	CSFRIDMA	CASTLEFORD
ID	475103	QWEST	DECLIDMA	DECLO
ID	475103	QWEST	DWNYIDMA	DOWNEY
ID	475103	QWEST	DYTNIDMA	DAYTON
ID	475103	QWEST	EAGLIDNM	EAGLE
ID	475103	QWEST	EDHZIDMA	EDEN-HAZELTON
ID	475103	QWEST	EMMTIDMA	EMMETT
ID	475103	QWEST	FKLNIDMA	FRANKLIN
ID	475103	QWEST	FRTHIDMA	FIRTH
ID	475103	QWEST	GDNGIDMA	GOODING
ID	475103	QWEST	GLFYIDMA	GLENNS FERRY
ID	475103	QWEST	GRACIDMA	GRACE
ID	475103	QWEST	HALYIDMA	HAILEY

ID	475103	QWEST	HGMNIDMA	HAGERMAN
ID	475103	QWEST	IDCYIDMA	IDAHO CITY
ID	475103	QWEST	IDFLIDMA	IDAHO FALLS
ID	475103	QWEST	INKMIDMA	INKOM
ID	475103	QWEST	JERMIDNM	JEROME
ID	475103	QWEST	KMBRIDMA	KIMBERLY
ID	475103	QWEST	KTCHIDMA	KETCHUM
ID	475103	QWEST	KUNAIIDMA	KUNA
ID	475103	QWEST	LHSPIDMA	LAVA HOT SPRINGS
ID	475103	QWEST	LSMNIDMA	LEWISVILLE-MENA
ID	475103	QWEST	LSTNIDSH	LEWISTON SHERWOOD
ID	475103	QWEST	MCCMIDMA	MCCAMMON
ID	475103	QWEST	MDTNIDMA	MIDDLETON
ID	475103	QWEST	MDVAUTMA	MIDVALE
ID	475103	QWEST	MELBIDMA	MELBA
ID	475103	QWEST	MRDNIDMA	MERIDIAN
ID	475103	QWEST	MRTGIDMA	MURTAUGH
ID	475103	QWEST	MTHOIDMA	MOUNTAIN HOME
ID	475103	QWEST	MTHOIDSO	MOUNTAIN HOME SOUTH
ID	475103	QWEST	MTPLIDMA	MONTPELIER
ID	475103	QWEST	NMPAIDMA	NAMPA
ID	475103	QWEST	NPMOIDMA	NEW PLYMOUTH
ID	475103	QWEST	PCTLIDMA	POCATELLO MAIN
ID	475103	QWEST	PCTLIDNO	POCATELLO NORTH
ID	475103	QWEST	PSTNIDMA	PRESTON
ID	475103	QWEST	PYTTIDMA	PAYETTE
ID	475103	QWEST	RBRTIDMA	ROBERTS

ID	475103	QWEST	RGBYIDMA	RIGBY
ID	475103	QWEST	RIRIIDMA	RIRIE
ID	475103	QWEST	RVSDIDMA	RIVERSIDE
ID	475103	QWEST	RXBGIDMA	REXBURG
ID	475103	QWEST	SDSPIDMA	SODA SPRINGS
ID	475103	QWEST	SHLYIDMA	SHELLY
ID	475103	QWEST	SHSHIDMA	SHOSHONE-DIETRICH
ID	475103	QWEST	STARIDNM	STAR
ID	475103	QWEST	THTCIDMA	THATCHER
ID	475103	QWEST	TWFLIDMA	TWIN FALLS
ID	475103	QWEST	WESRIDMA	WEISER
ID	475103	QWEST	WNDLIDMA	WENDELL