

**PREMPTION OF VOIP REGULATION IN IDAHO
CENTURYLINK REPLY COMMENTS
(October 26, 2016)**

Summary of CenturyLink’s Position:

CenturyLink supports the preemption of VoIP regulation at the state level, as long as the legislation also mandates that VoIP providers and wireless providers pay the various taxes, fees and surcharges that telecommunication providers are required to pay. Payment of the various taxes, fees and surcharges needs to be nondiscriminatory and competitively and technologically neutral; neither providing a competitive advantage for, nor imposing a competitive disadvantage upon any voice service provider.¹ Today, these fees are discriminatory; some voice providers’ pay and some do not. The legislature should fix this during the 2017 legislative session, at the same time it addresses the preemption of VoIP regulation. This is not only good public policy it can be done without “broad sweeping rewrite of Idaho’s code related to communications or telecommunications services.”²

Response to the comments filed by other parties.³

For the most part the parties filing comments in this proceeding agree that VoIP historically has not been considered a “telecommunications service” and has not been regulated at the state level. They agree that legislation should be enacted to assure that VoIP services continue to be unregulated at the state level.

¹ Voice service" means local voice service (landline and wireless) provided through any technology that interconnects with the Public Switched Telephone Network, or its functional equivalent and can reach an emergency service provider such as 911.

² March 28, 2016, letter to Commissioner Paul Kjellendar, from President Pro Tempore Senator Brent Hill and Speaker of the House of Representatives, Representative Scott Bedke.

³ Idaho Public Utilities Commission website link to the comments:
<http://www.puc.idaho.gov/telecom/VoIP/VoIP.html>

Response to Verizon's comments:

Verizon believes that the legislature does not need to address the parity of taxes, fees and surcharges issue at the same time it addresses VoIP regulation.⁴ Verizon erroneously concludes that CenturyLink's proposal is beyond the legislative scope to the IPUC. However, CenturyLink's proposal clearly falls within the parameters of **“the need for revision of other Idaho statutes.”**⁵ It does not require a broad sweeping rewrite of Idaho's code related to communications or telecommunications services.⁶

CenturyLink believes that one motivation for the voice providers who oppose tax and fee parity is to maintain the advantages they now have. These providers want the benefits of being able to offer voice services in Idaho, but also want to avoid the responsibilities that come with being a voice service provider.⁷ However, there is no basis for VoIP providers and wireless providers to be able to gain competitive advantage by avoiding the various taxes, fees and surcharges that other voice providers must pay. This is the perfect opportunity for the legislature to fix this inequity.

⁴ This position is consistent with Verizon's position in Utah over 4 years ago when they pushed for similar VoIP legislation. VoIP legislation was passed without mandating parity in the payment of taxes, fees and surcharges at the same time. After 4 years, VoIP providers are still not mandated to pay the various taxes, fees and surcharges under the jurisdiction of the Utah Public Service Commission. However, the Utah Tax Commission has been successful in requiring VoIP providers to pay 911 and other taxes, fees and surcharges under its jurisdiction. If the Idaho Legislature does not require tax parity at the same time as exemption of VoIP regulation, it can fully expect continued opposition by parties like Verizon.

⁵ March 28, 2016, letter to Commissioner Paul Kjellendar, from President Pro Tempore Senator Brent Hill and Speaker of the House of Representatives, Representative Scott Bedke.

⁶ A broad sweeping rewrite of the Idaho code would include necessary modifications to Title 62 in regards to regulation and Idaho Universal Service reform to transition it to a fund that supports deployment of high speed internet, capable of supporting voice service in high cost areas.

⁷ Even though it is nice that some VoIP providers state that they are voluntarily paying the various taxes, fees and surcharges today, without it being mandated there is no guarantee that they will continue to voluntarily pay, especially if other voice providers are not required to pay and choose not to pay.

The legislature should not be concerned about Verizon's assertions that requiring VoIP providers and wireless providers to pay the various taxes, fees will discourage investment in Idaho. A combined \$0.15 per line per month surcharge⁸, which is significantly lower than the existing 911 surcharge, will not impact investment. This is a pass through to end-user customers and not a cost that voice providers must absorb. As long as all voice providers are required to collect and pay, no voice provider will be advantaged or disadvantaged. A voice provider's determination to invest in Idaho will be influenced by other economic and competitive factors, and no providers should be granted special advantages.

Also, requiring all voice providers to pay the same of taxes, fees and surcharges does not equate to regulation. For example, currently in Idaho wireless providers are required to collect and pay the 911 surcharge. This requirement has not resulted in the rates, terms and conditions and earnings of wireless providers being regulated at the state level. Cable Television providers who also provide VoIP services and who voluntarily pay the various taxes, fees and surcharges are not regulated by the IPUC.

Response to Level 3:

CenturyLink agrees with Verizon that the issues discussed by Level 3 in its comments regarding assertion of IPUC jurisdiction of IP interconnection are not under the state jurisdiction. A state's actions cannot preempt federal interconnection requirements.

Response to the Draft Report:

CenturyLink requests the addition of another alternative to the existing alternatives outlined in the draft report. There needs to be an alternative that mandates the payment of the various taxes, fees and surcharges to coincide with legislation to preempt VoIP regulation.

In regards to Alternative 3, this will result in the disparity in treatment for CenturyLink in its offering of VoIP voice services. Despite the fact that various CenturyLink entities in Idaho operate under Title 62, CenturyLink's VoIP services currently are not subject to Idaho regulation and it should remain that way.

⁸ Outlined in CenturyLink's comments located at the IPUC website:
<http://www.puc.idaho.gov/telecom/VoIP/VoIP.html>