

Idaho Public Utilities Commission  
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Boise, Idaho

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**Lisa A. Anderl**  
Senior Associate General Counsel  
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April 25, 2018

*Via Email and overnight delivery*

Diane Hanian, Secretary  
Idaho Public Utilities Commission  
472 West Washington  
Boise, Idaho 83702-5983

Re: Case No. GNR-T-17-05  
Idaho Universal Service Fund (IUSF)  
CenturyLink and Level 3 Reply Comments

Dear Ms. Hanian:

Attached are CenturyLink and Level 3 Reply Comments in the above-referenced docket. Paper copies will be forwarded by overnight mail.

Sincerely,

Lisa A. Anderl

LAA/jga

Attachments

**CENTURYLINK AND LEVEL 3 - Reply Comments**  
IDAHO UNIVERSAL SERVICE FUND (IUSF)  
CASE NO. GNR-T-17-05  
April 25, 2018

**Background:**

On January 31, 2018 various parties filed position papers in this proceeding.<sup>1</sup> On April 4, 2018, the Idaho Public Utilities Commission (IPUC) Staff provided its Summary and Report. CenturyLink commends Staff in putting together a comprehensive report to help the IPUC address very difficult issues, especially considering the various recommended solutions advocated by the parties in this proceeding. CenturyLink generally agrees with the Staff report. However, CenturyLink respectfully submits reply comments, providing clarification and making recommendations for an interim solution until the legislature has time to act and long term solutions can be implemented.

The one area of agreement among the various parties in the position papers is that the Idaho legislature needs to determine the long term/permanent solution addressing the problems with the Idaho Universal Service Fund (IUSF).

**Interim solutions:**

In its report, Staff stated the following:

*“While Staff agrees in principle that the surcharge rate should be frozen at the current rates established in Commission Order No. 33851 on August 22, 2017, the IUSF statutes provide no mechanism for capping, sun setting, or otherwise changing the assessment and distribution methodologies.”<sup>2</sup>*

*“Staff Option 1: Leave the IUSF as is, cap the Fund based upon projected surcharge revenue collected each year, and adjust the distribution to the current recipients accordingly. This option would be hard to execute, because Fund assessment and distribution methodologies are codified in the Telecommunications Act of 1988 and, therefore, the Commission may be in conflict with statute.”<sup>3</sup>*

CenturyLink understands this possible concern, since the statute does not specifically state that the IPUC may cap the surcharge amount. However, there are other provisions of the statute that

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<sup>1</sup> PUC Website link to Case No. GNR-T-17-04: <http://www.puc.idaho.gov/fileroom/cases/summary/GNRT1705.html>

<sup>2</sup> Page 2 of the Staff Summary and Report in this proceeding.

<sup>3</sup> Page 11 of the Staff Summary and Report in this proceeding.

the IPUC needs to consider in determining what to do on an interim basis until the legislature has time to act.

The IUSF statute states:

*“The purpose of this act is to authorize the Idaho public utilities commission to establish a competitively and technologically neutral funding mechanism which will operate in coordination with federal universal service support mechanism.”<sup>4</sup>*

The existing IUSF funding mechanism is not competitively and technology neutral, because wireless and Voice over Internet Protocol (VoIP) providers are not required to pay into the IUSF. Increasing the existing surcharge before this problem can be fixed by the legislature will only exacerbate the existing discriminatory surcharge assessed on residential and business local exchange voice service<sup>5</sup> and not assessed on VoIP and wireless voice services. Because an increase to the existing surcharge would violate the mandate that the surcharge be technologically neutral (i.e., non-discriminatory), the IPUC should not take action to make that situation even worse. CenturyLink believes that the funding mechanism not being competitively and technologically neutral provides greater public interest harm than capping the surcharge at current levels, and that the IPUC necessarily has the authority to decline to take further action in contravention of the statutory mandate.

*“The commission shall provide by order, for not less than seventy-five percent (75%) nor more than one hundred percent (100%) of the residual revenue requirement of the individual eligible telecommunications carrier to be funded by the universal service fund.”<sup>6</sup>*

It is CenturyLink’s understanding that it has been many years since any analysis has been done demonstrating that each of the 8 rural telecommunications companies that receive ongoing IUSF support are within the 75% - 100% residual revenue requirement range outlined in statute. Instead of continuing to raise the surcharge to keep the IUSF funding at current levels, the IPUC could determine the level of funding that will happen at the current surcharge level and adjust each of the 8 rural telecommunications companies’ ongoing support downward accordingly. If any of the 8 companies object to this, the IPUC could then require all 8 companies to provide evidence demonstrating where they are in comparison to the range. After an evidentiary hearing, once the actual evidence has been approved by IPUC order, the level of ongoing support would be adjusted and the surcharge would be modified to achieve the required level of funding based upon the IPUC finding.

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<sup>4</sup> Idaho Statute 62-610A: <https://legislature.idaho.gov/statutesrules/idstat/Title62/T62CH6/SECT62-610A/>

<sup>5</sup> Idaho Statute 62-610 (2): <https://legislature.idaho.gov/statutesrules/idstat/Title62/T62CH6/SECT62-610/>

<sup>6</sup> Idaho Statute 62-610 (4): <https://legislature.idaho.gov/statutesrules/idstat/Title62/T62CH6/SECT62-610/>

Another option would be for the IPUC to move forward and adopt/implement the transition described in 62-610F of the Idaho statute.<sup>7</sup> In the example discussed in the paragraph above, if any of the 8 companies object to having their ongoing draws from the IUSF lowered, the IPUC could move forward with a proceeding to implement this statute by requiring various interested parties to propose the appropriate forward-looking cost methodology that the IPUC should utilize to determine ongoing support. At that time the IPUC could also expand the collection of surcharges consistent with the provisions of this statute which require that a surcharge “be imposed on end users of all retail telecommunication services originating and terminating within the state of Idaho and collected by the telecommunications carrier providing telecommunication services to such end users.”<sup>8</sup> As defined in 62-610 B (Definitions) of the statute, wireless Telecommunication Carriers would be required to start collecting and paying the IUSF surcharge. Having wireless Telecommunications Carriers also pay will significantly increase the contribution base, which most likely would allow the IPUC to significantly lower the IUSF surcharges unless there was a significant increase in ongoing draws from the fund.

CenturyLink believes it is critical for the IPUC to take the appropriate action in the interim to prevent increasing the disparity and discrimination with the IUSF surcharge mechanism.

**Long Term Solution:**

CenturyLink agrees with Option 2 recommended by Staff that interested parties need to seek statutory revisions. Because of the diverse options/solutions recommended by the various parties in their position papers, IUSF reform is going to be a difficult task for the Idaho Legislature.

**Conclusion:**

As discussed above, the IPUC should decline to increase the IUSF surcharge, pending a long term legislative solution.

Respectfully submitted this 25th day of April 2018.

CENTURYLINK



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<sup>7</sup> Idaho statute 62-610F: <https://legislature.idaho.gov/statutesrules/idstat/Title62/T62CH6/SECT62-610F/>

<sup>8</sup> Idaho statute 62-610F(2): <https://legislature.idaho.gov/statutesrules/idstat/Title62/T62CH6/SECT62-610F/>