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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF

RICHARD KEAVY,

COMPLAINANT

v.

**QWEST CORPORATION D/B/A
CENTURYLINK QC,**

RESPONDENT

CASE NO. QWE-T-21-14

**RESPONSE OF QWEST CORPORATION
D/B/A CENTURYLINK QC
TO COMPLAINT**

RESPONSE TO COMPLAINT

1. Qwest Corporation d/b/a CenturyLink QC (“CenturyLink” or “Company”) provides this Response to the Complaint by Richard Keavy (“Complainant” or “Mr. Keavy”) as set forth in the January 12 Summons by the Commission. CenturyLink provides this Response in accordance with the Commission’s January 22, 2022 ruling granting CenturyLink’s request for an extension.

I. BACKGROUND

2. The Complainant has a long history of making unsupported claims regarding his service, and he has done so in an aggressive and repetitive, if not harassing, manner. For this reason, CenturyLink wishes to discontinue providing to Complainant the service at issue. In

fact, a recent small claims court decision in Ada County rejected a complaint that appears to involve the same service issues he avers in this matter, although it still remains unclear what the Complainant's allegations in this matter are precisely.¹

3. The Complainant subscribes to a service called "Call Trace" which allows a customer to dial on their phone *57 so that the Company can record the incoming call number and, if available, the identity of the caller. The service is provided subject to the terms of CenturyLink's Idaho service catalog, which defines the service:

Call Trace. Allows a called party to initiate an automatic trace of the last call received. Call Trace is available on a pay per use basis only. After receiving the call which is to be traced, the customer dials a code and the traced telephone number is automatically sent to the Company for further action. The customer originating the trace will not receive the traced telephone number. *The results of a trace will be furnished only to legally constituted law enforcement agencies or authorities upon proper request by them.* Manual Trap and Trace is available where facilities permit.²

The Company's website outlines how the Company implements the terms of service. It states that call information that the Company collects is not provided to customers. Rather, it is provided only to law enforcement officials in response to a subpoena:

To trace a call, hang up from the call. Pick the phone back up and be sure to obtain a clear dial tone. Dial *57 and listen to the recorded information provided. The recording will not provide the calling party's phone number; it will only indicate whether or not you've had a successful trace... Once you have traced the call, contact your local Law Enforcement Agency. The trace results will only be released to a Law Enforcement Agency with a subpoena or court order."³

It does not appear based on review of Company records that Mr. Keavy has ever contacted local law enforcement to seek to have the data from the call traces subpoenaed, or if he did those requests were rejected. It would not surprise the company if the latter were the case. Call Trace

¹ See Exhibit 1.

² CenturyLink Idaho Catalog, Section 5.4.3.A (*emphasis added*). See, https://www.centurylink.com/tariffs/sid_qc_ens_c_no_1.pdf

³ See, <https://www.lumen.com/en-us/about/legal/trust-center/trust-and-safety-customer-faqs.html>

is not intended to stop untoward telemarketers from making calls to a number that has been placed on the national no-call list, even if it is a non-published number. Rather, it is intended to provide law enforcement with a tool to address crimes against persons and property, such as personal threats, theft, domestic violence, and the like. To Respondent's knowledge, Mr. Keavy has not alleged that any such actual crimes have been committed in association with the unwanted calls he is receiving on his CenturyLink telephone line. And even if CenturyLink had provided call information gathered from a call trace by the Complainant to law enforcement, pursuant to a subpoena, CenturyLink's obligation would be fulfilled at that point – any further action, enforcement or otherwise, would have had to be conducted by law enforcement.

II. ARGUMENT

4. The only violation of law that Mr. Keavy appears to allege would be one involving contract law, although Respondent notes that there is not sufficient detail in the written complaint to establish a cognizable claim related to contract law or of any kind – no law or facts related to an enforceable law are cited. And the Commission does not adjudicate contract disputes unrelated to its primary jurisdiction. For that reason alone, the Complaint should be dismissed. But there are other grounds for dismissal.

5. The Commission only addresses disputes between consumers and the companies it regulates based on filed tariffs for Title 61 companies, or the terms set forth in price lists or service catalogs in the case of telecommunications companies regulated under Idaho Code, Chapter 6, Title 62 (the "Telecommunications Act of 1988" or the "Act"). The Act substantially narrows the scope of the Commission's regulation of telecommunications, limiting regulation to matters related to the implementation of the federal telecommunications act of 1996 and, as it pertains to retail service, basic telephone service:

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, provision of access to carriers providing message telecommunication service, filing of price lists, customer notice and customer relation rules, and billing practices and procedures, which requirements shall be technologically and competitively neutral.⁴

6. Call Trace service is a discretionary service that is not subject to the provisions of the Act. And the Complaint does not allege that CenturyLink has in any way been derelict in providing basic local exchange service. In addition, the Complaint does not allege that CenturyLink has engaged in any prohibited billing practices, whether for basic local exchange service or the Call Trace service that appears to be Complainant's main, if not only, concern.⁵ Therefore, the Complainant makes no claim for which the Commission can grant relief.

7. Furthermore, Rule 401, consistent with the Section 62.605(5)(b) of the Idaho Code, does not appear to contemplate review of claims unrelated to local to exchange service:

The Commission has authority to investigate and resolve complaints made by subscribers to telecommunication services *that concern the quality and availability of local exchange service*, or whether price and conditions of service are in conformance with filed tariffs or price lists, deposit requirements for such service or disconnection of such service. If a customer who has complained to a telephone company is dissatisfied with a telephone company's proposed disposition of the complaint, the customer may request the Commission to review informally the disputed issue and the telephone company's proposed disposition of the complaint. *The Commission may consider complaints regarding any telephone services over which the Commission has authority. (Emphasis added).*

Again, the Complaint makes allegations only regarding a non-regulated service which the Company offers at its discretion, and which is not contemplated for review under Rule 401. However, even if the Complainant were to argue that the Commission should assert jurisdiction over a complaint related to the billing of a non-regulated service, he does not allege that

⁴ Idaho Code § 62-605(5)(b).

⁵ CenturyLink notes that Rule 201.01 appears to address billing disputes regarding "other services".

CenturyLink mis-billed for Call Trace. CenturyLink has appropriately billed for the Complainant for those services.

8. Even if the Commission was determined to consider the Complainant's assertions regarding CenturyLink's provision of Call Trace service, the Company has provided the service consistent with the terms of service set forth in the catalog, which govern the Company-customer relationship and the provision of service. And CenturyLink advised Mr. Keavy of those terms.

9. CenturyLink has not violated any statute or rule in providing service to the Complainant, who has been making claims regarding Call Trace service since at least 2017, when the Ada County Small Claims Court rejected similar allegations as those made in this matter. The continuous, already rejected claims have bordered on harassment and are groundless. The Company's employees should not be subjected to the barrage of emails and phone calls, some of which are aggressive and insulting, especially given that there is no basis for the claims.

III. COMMUNICATIONS AND CORRESPONDENCE

Pleadings, orders, notices or other correspondence and communications regarding this Petition should be provided to:

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And

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REQUEST FOR RELIEF

The Complainant has failed to bring any claims that are justiciable under Idaho Code, Chapter 6, Title 62 and Commission Rule 401.01. CenturyLink has billed for the Call Trace service appropriately, and the Complaint does not allege otherwise. The Company has provided the service consistent with the terms of service set forth in its catalog. Therefore, CenturyLink requests that the Commission:

- (1) Find that CenturyLink has not violated any statute or Commission rule;
- (2) Dismiss the Complaint with prejudice on the grounds that (a) the Complainant has not stated a claim for which the Commission can grant relief, and/or (b) the Complaint is barred by the doctrine of Res Judicata; and
- (3) Find that Call Trace is a discretionary service that the Company is not required to continue to provide, or in the alternative, authorize CenturyLink to discontinue providing the Call Trace service to Complainant.

Respectfully submitted,

HAWLEY TROXELL ENNIS & HAWLEY, LLP

/s/Stephen R. Thomas
By Stephen R. Thomas

CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of February, 2022, served the foregoing RESPONSE OF QWEST CORPORATION D/B/A CENTURYLINK QC TO COMPLAINT, in Case QWE-T-21-14, by forwarding a copy thereof, to the following:

Mr. Richard Keavy
11282 Glen Ellyn
Boise, Idaho 83713
(via U.S. Mail AND courtesy copy by email to: cheapadvice@msn.com)

Taylor R. Brooks
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William Hendricks
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(via email: tre.hendricks@centurylink.com)

/s/Stephen R. Thomas
Stephen R. Thomas

EXHIBIT 1

Case Information

CV01-17-00230 | Richard Keavy Plaintiff, vs. Century Link Corporation Defendant.

Case Number
CV01-17-00230
File Date
01/06/2017

Court
Ada County Magistrate Court
Case Type
C -Small Claims

Judicial Officer
Manweiler, David D.
Case Status
Closed

Party

Plaintiff
Keavy, Richard

Defendant
Century Link Corporation

Active Attorneys ▼
Lead Attorney
Risch, Jason Steven
Retained

Disposition Events

03/31/2017 Judgment ▼

Judicial Officer
Cockerille, Roger E.

Judgment Type
Claim Denied

08/08/2017 Judgment ▼

Judicial Officer
Manweiler, David D.

Judgment Type
Claim Denied

Comment

Comment (On Trial De Novo)

Events and Hearings

01/06/2017 New Case - Small Claims

01/06/2017 SC Small Claims form CAO SC 1-2

01/06/2017 SC Summons Issued ▼

Comment
and filed

01/06/2017 SC Affidavit of Competence, Non-Military Service and Amt Due

01/06/2017 Summons ▼

Served
01/25/2017

01/13/2017 SC Summons Return of Service Served

01/25/2017 SC Answer

01/27/2017 Civil Notice of Hearing ▼

Comment

Contested Hearing 3/16/17 @ 9:00 am

03/30/2017 Small Claims Contested Hearing ▼

Judicial Officer

Cockerille, Roger E.

Hearing Time

10:30 AM

Result

Hearing Held

03/31/2017 SC Small Claims Judgment ▼

Comment

In Favor of the Defendant Plaintiff's Claim is Denied

03/31/2017 Certificate of Mailing

03/31/2017 Civil Disposition Entered

04/28/2017 Notice of Appeal

04/28/2017 Notice ▼

Comment

of Reassignment (to Judge Manweiler)

05/15/2017 Order ▼

Comment

Setting Trial De Novo and Pre-Trial Order 8/8/17 at 2PM

07/21/2017 Motion ▼

Comment

to Amend Date and Time Allotted for Trial

07/25/2017 Notice of Appearance

07/25/2017 Notice ▼

Comment of Non-Objection
07/31/2017 Motion ▼ Comment Seeking Permission to Enter into Discovery
08/01/2017 Order ▼ Comment Setting Trial Date - DENIED
08/03/2017 SC Amended Complaint Small Claims
08/03/2017 Memorandum
08/08/2017 Small Claims Trial De Novo ▼ Judicial Officer Manweiler, David D. Hearing Time 2:00 PM Result Hearing Held
08/08/2017 Court Minutes
08/08/2017 Judgment ▼ Comment on Trial De Novo - In favor of the Defendant - Plaintiff's Claim is Denied
08/08/2017 Civil Disposition Entered
08/08/2017 Exhibit List/Log
08/08/2017 Civil Disposition Entered
07/09/2018 Notice of Intent to Destroy Exhibits ▼ Comment Clerk's Notice

Financial

Keavy, Richard

Total Financial Assessment	\$154.25
Total Payments and Credits	\$154.25

1/5/2017	Transaction Assessment			\$69.00
1/5/2017	Transaction Assessment			\$3.00
1/5/2017	Case Payment	Receipt # 01425-2017-R01	Keavy, Richard	(\$72.00)
4/27/2017	Transaction Assessment			\$81.00
4/27/2017	Case Payment	Receipt # 45619-2017-R01	Keavy, Richard	(\$81.00)
7/23/2017	Transaction Assessment			\$1.25
7/23/2017	Mail Payment	Receipt # 78417-2017-R01	Keavy, Richard	(\$1.25)