

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF RICHARD KEAVY'S) CASE NO. QWE-T-21-14
FORMAL COMPLAINT AGAINST QWEST)
CORPORATION)
) ORDER NO. 35351
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)

On December 2, 2021, Richard Keavy filed a Formal Complaint (“Complaint”) against Qwest Corporation d/b/a/ CenturyLink (QWE) (“Company”). Mr. Keavy was unsatisfied with the outcome of the informal procedures to resolve his informal complaint and requested that the Commission open a formal complaint against the Company.

At the December 20, 2021, Decision Meeting, the Commission accepted Mr. Keavy’s Complaint. On January 12, 2022, the Commission mailed a Summons and copy of Mr. Keavy’s Complaint to the Company via certified mail. *See Certified Mail Receipt*. On February 28, 2022, after the Commission allowed additional time for the Company to respond,¹ a response was filed to Mr. Keavy’s Complaint. *See Response to Complaint*.

Having reviewed the record in this case, the Commission now issues this final Order dismissing the Formal Complaint for reasons explained below.

FACTUAL SUMMARY

1. The Complaint

Mr. Keavy complained that the Company failed to follow through on providing a quality form of service related to “Call-Trace.”² Mr. Keavy alleged that through utilizing the Call Trace system, he formed a contract with the Company wherein the Company was obligated to provide him with the results of each *57 attempt that Mr. Keavy performed. *See generally Keavy Complaint* at 1. Mr. Keavy alleged that the Company failed to perform its obligations in an acceptable manner. *Id.*

2. The Company’s Response

The Company defines the “Call Trace” system as follows:

¹ See Order No. 35329

² Call Trace is a system which allows a customer to dial *57 so that the called party can initiate an automatic trace of the last call received. *See Company Response* at 2.

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.³

Company Response at 2.

The Company stated that Call Trace was not intended to stop untoward telemarketers from making calls, but rather, to provide law enforcement with an ability to address crimes against persons and property. *Id.* at 2-3. The Company stated that its contractual obligation is to provide the call information gathered from the call trace to law enforcement pursuant to a subpoena—not by Mr. Keavy’s request. *Id.* at 3.

The Company argued that the Commission “does not adjudicate contract disputes unrelated to its primary jurisdiction.” *Id.* The Company stated that Call Trace is a discretionary service; it is not a basic local exchange service as governed by *Idaho Code* § 62-605. *Id.* at 4. The Company stated that discretionary services are non-regulated services; thus, Mr. Keavy failed to state a claim by which the Commission could grant relief. *Id.* The Company asserted that it provided the service consistent with its contractual terms of service, it did not violate any statute or rule in providing that service, and it properly advised Mr. Keavy of those terms. *Id.*

The Company requested that the Commission (1) find that the Company has not violated any statute or Commission Rule; (2) dismiss the Complaint; and (3) find that the Call Trace service is discretionary that the Company is not required to continue providing—or—in the alternative, authorize the Company to discontinue providing the service to Mr. Keavy. *Id.* at 6.

COMMISSION FINDINGS AND DECISION

The Idaho Public Utilities Commission exercises **limited jurisdiction** and has no authority other than that expressly granted to it by the legislature. *Washington Water Power Co. v. Kootenai*, 99 Idaho 875, 591 P.2d 122 (1979). This Commission has no authority under Idaho law to adjudicate the dispute between Mr. Keavy and the Company. The Company is a telephone corporation as defined in *Idaho Code* § 61-121 but is exempt from the requirements of Title 61

³ CenturyLink Idaho Catalog, Section 5.4.3.A. (https://www.centurylink.com/tariffVsid_gc_ens_c_no_1.pdf).

public utilities laws.⁴ *See generally Idaho Code* §§ 62-604 and 62-605. For telephone corporations under the jurisdiction of Title 62 Idaho Code § 62-605(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, 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.

Idaho Code § 62-603(1) defines basic local exchange service as:

[T]he provision of access lines to residential and small business customers with the associated transmission of two-way interactive switched voice communication within a local exchange calling area.⁵

The Commission finds that “Call Trace” does not constitute a basic local exchange service; therefore, the Commission has no regulatory authority over such service. Accordingly, the Commission declines to adjudicate the dispute between Mr. Keavy and the Company.

ORDER

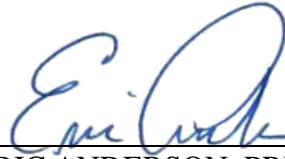
IT IS HEREBY ORDERED that Mr. Keavy’s Complaint is dismissed.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

⁴ The Company removed its basic local exchange service from Title 61 regulation in July 2005. Notice of Election, Case No. QWE-T-05-13 (July 14, 2005).

⁵ *See also Idaho Code* § 62-603(13) (“Telecommunication service” means the transmission of two-way interactive switched signs, signals. . . “

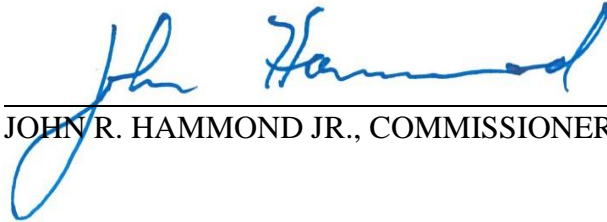
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22nd day of March 2022.



ERIC ANDERSON, PRESIDENT

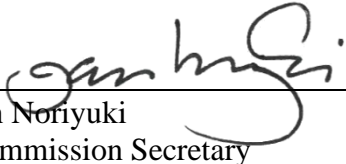


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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