



Idaho Public Utilities Commission

P.O. Box 83720, Boise, ID 83720-0074

Brad Little, Governor

Eric Anderson, President
John Chatburn, Commissioner
John R. Hammond, Jr., Commissioner

June 24, 2022

Via E-Mail and Interagency Mail
supremecourtdocuments@idcourts.net

Melanie Gagnepain
Clerk of the Courts
Supreme Court
451 W. State Street
Boise, Idaho 83720-0101

Re: PUC Clerk's Certificate of Appeal
Supreme Court Docket No.: _____-2022

Dear Ms. Gagnepain,

Enclosed for your information and action is the Clerk's Certificate of Appeal from the Idaho Public Utilities Commission. Also enclosed is the Notice of Appeal filed by Richard Keavy on June 14, 2022, and the \$94 filing fee.

I have also enclosed copies of the two PUC Orders appealed from: Final Order No. 35351 and Reconsideration Order No. 35396. I anticipate that the Commission will issue and Order shortening the title on appeal pursuant to Appellate Rule 6.

If you have any questions, please contact me at 334-0338.

Sincerely,

Jan Noriyuki
Commission Secretary

Enclosures

cc: Chris Burdin, Deputy Attorney General

I:\Legal\TELECOM\SUP-T-22-01 Keavy Appeal\SC_CvrLtr_20220624.docx

IN THE PUBLIC UTILITIES COMMISSION OF THE STATE OF IDAHO

**IN THE MATTER OF RICHARD
KEAVY'S FORMAL COMPLAINT
AGAINST QWEST CORPORATION
D/B/A CENTURYLINK**

)
) **Supreme Court Docket No. _____-2022**
)
) **Idaho Public Utilities Commission No.**
) **QWE-T-21-14**
)

RICHARD KEAVY,

Appellant

v.

**IDAHO PUBLIC UTILITIES
COMMISSION, IDAHO ATTORNEY
GENERAL, IDAHO SECRETARY OF
STATE, CITY OF BOISE, BOISE CITY
POLICE DEPARTMENT, IDAHO STATE
BAR, LUMEN TECHNOLOGIES AKA
CENTURYLINK/USWEST/ET AL**

Respondents

Appeal from the Idaho Public Utilities Commission, The Honorable Eric Anderson presiding.

Case Number from Idaho Public Utilities Commission: QWE-T-21-14

Order or Judgment Appealed from: Final Order No. 35351 and Final Reconsideration Order No. 35396

Attorney(s) for Appellant: N/A – Appellant Richard Keavy, *pro se*, 11282 W. Glen Ellyn Drive, Boise, Idaho 83713

Attorney for Respondent: Chris Burdin, Deputy Attorney General, Idaho Public Utilities Commission, P. O. Box 83720, Boise, Idaho 83720-0074

Appealed by: Richard Keavy

Appealed against: Idaho Public Utilities Commission

Notice of Appeal Filed: June 14, 2022

Amended Notice of Appeal filed: N/A

Notice of Cross-appeal Filed: N/A

Amended Notice of Cross-appeal Filed: N/A

Appellate Fee Paid: \$94.00 (June 15, 2022)

Respondent or Cross-Respondent's Appeal Request for Additional Record Filed: N/A

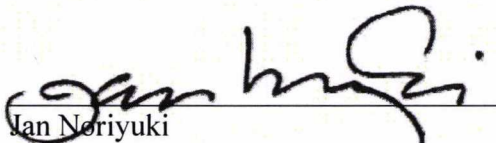
Respondent or Cross-Respondent's Request for Additional Reporter's Transcript Filed:
N/A

Was Agency Reporter's Transcript Requested: No

Estimated Number of Pages: N/A

If so, name of each reporter of whom a transcript has been requested as named below at the address set out below: N/A

Dated this 24th day of June 2022.



Ian Noriyuki
Secretary of the Public Utilities Commission

(SEAL)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 24th DAY OF JUNE 2022, SERVED THE FOREGOING *Clerk's Certificate of Appeal*, in IPUC Case No. QWE-T-21-14, ON THE FOLLOWING PERSONS, AS INDICATED BELOW:

Richard Keavy
11282 W. Glen Ellyn Drive
Boise, ID 83713

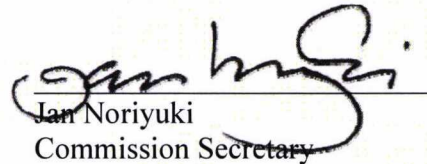
- US Mail, postage prepaid, June 27, 2022
- E-Mail to cheapadvice@msn.com

William "Tre" Hendricks
Lumen Technologies/CenturyLink
902 Wasco St., Floor 1
Hood River, OR 87031

- US Mail, postage prepaid, June 27, 2022

Steven R. Thomas
Hawley Troxell
877 W. Main St., Suite 1000
Boise, ID 83702

- US Mail, postage prepaid, June 27, 2022
- E-Mail to stthomas@hawleytroxell.com


Jan Noriyuki
Commission Secretary

Richard Keavy ProSe*
11282 W. Glen Ellyn Drive
Boise, ID 83713
208-322-1383

RECEIVED

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PUBLIC UTILITIES
COMMISSION

IN THE PUBLIC UTILITIES COMMISSION OF THE STATE OF IDAHO

Appellant:
Richard Keavy

vs

Respondents:
Idaho Public Utilities
Commission, Idaho Attorney
General, Idaho Secretary of
State, City of Boise,
Boise City Police Department,
Idaho State Bar,*
Lumen Technologies aka
CenturyLink/USWest/etal.

CASE NO. QWE-T-21-14

NOTICE OF APPEAL

Appellant requests in addition a tort form/means so to include those parties who knowingly suborned, encouraged and provided the vehicles by which the principal party, Lumen, did intentionally break promises and contracts while misleading willing law enforcement authorities and others who purposely ridiculed, jeopardized and obliged against constructive civil discord.

TO: THE ABOVE NAMED RESPONDENTS INCLUDING THE IDAHO PUC, IDAHO ATTORNEY GENERAL, IDAHO SECRETARY OF STATE, CITY OF BOISE, BOISE CITY POLICE DEPARTMENT, PARTY ATTORNEYS MESSRS THOMAS OF HAWLEY TROXELL AND HENDRICKS OF LUMEN, IDAHO STATE BAR, THE CLERK (MS JAN NORIYUKI) AND OTHERS OF THE ABOVE-ENTITLED ADMINISTRATIVE AGENCY.

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant, Richard Keavy, does appeal against the above-named respondents **to the Idaho Supreme Court** due to the Idaho Public Utilities Commission final Order #35396 (and other orders/causes) signed the above-entitled proceeding on the 4th day of May 2022, by Honorable three Commissioners presiding at that time. Notice was posted 5/5/22.
2. Appellant has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule [e.g. (11(a)(2)) or (12(a))] I.A.R.

3. A preliminary statement of the issues on appeal which the appellant has outlined above under the title NOTICE OF APPEAL intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.

4. I certify that:

(5) Appellant will pay appellate filing fee promptly upon advice that it is due.

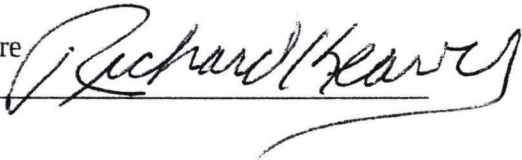
(6) Service is under way to all parties required to be served pursuant to Rule 20 Idaho Code and § 67-1401(1).

(7) Appellant has been and continues the process of attempting to secure* legal counsel to manage the detail appropriately and respectfully before the Court.

(8) Appellant was generally instructed by the PUC Secretary system that it would determine what information it wants the Court to see and would provide that information directly to the court upon receipt of this initial appeal endeavor.

DATED THIS 14th day of June, 2022.

Appellant Signature



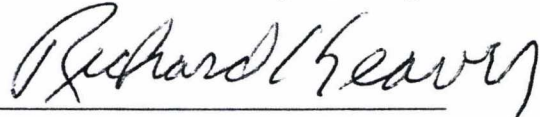
A handwritten signature in cursive script, reading "Richard Keavy", written over a horizontal line.

State of Idaho)

County of ADA)

I Richard Keavy, being sworn, deposes and says: I am the appellant in the above-entitled appeal and that all statements in this notice of appeal are true and correct to the best of my knowledge and belief.

Signature of Appellant



A handwritten signature in cursive script, reading "Richard Keavy", written over a horizontal line.

Subscribed and Sworn to before me this 14th day of June, 2022.

CERTIFICATE OF SERVICE

I certify that I served true and accurate copies of the foregoing Appeal to the Idaho Supreme Court of the Idaho Public Utilities Commission Case #QWE-T-21-14 on the following persons, as indicated below:

Name: Jan Noriyuki, Commission Secretary, Idaho Public Utilities Commission

Served by:

- Hand-delivery to 11331 W. Chinden Blvd, Bldg 8, Boise, ID 83714 on 6/14/22
- Deposit in the designated courthouse mailbox
- By deposit in the U.S. Mail addressed as follows:

Name: Clerk of the Idaho Supreme Court of Appeals

Served by:

- Hand-Delivery to 451 W. State, Boise, ID 83702 on 6/14/22
- Deposit in the designated courthouse mailbox
- By deposit in the U.S. Mail addressed as follows:

Name: William "Tre" Hendricks, Lumen Technologies/CenturyLink

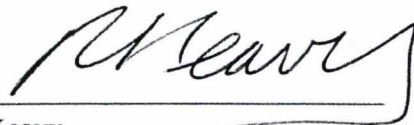
Served by:

- Hand-delivery
- Deposit in the designated courthouse mailbox
- By deposit in the U.S. Mail 6/15/22 addressed as follows: William Hendricks, Lumen Technologies/CenturyLink 902 WASC0 Street, Floor 1, Hood River, OR 87031

Name: Steven R. Thomas, Hawley Troxell Ennis & Hawley, LLP

Served by:

- Hand-delivery
- Deposit in the designated courthouse mailbox
- By deposit in the U.S. Mail 6/15/22 addressed as follows: 877 W. Main Street, Suite 1000, Boise, ID 83702



Richard Keavy

CERTIFICATE OF SERVICE

I certify that I served true and accurate copies of the foregoing Appeal to the Idaho Supreme Court of the Idaho Public Utilities Commission Case #QWE-T-21-14 on the following persons, as indicated below:

Name: Lawrence Wasden

Served by:

- Hand-delivery
- Deposit in the designated courthouse mailbox
- By deposit in the U.S. Mail 6/15/22 addressed as follows: Attorney General Lawrence Wasden, 700 W. Jefferson, Boise, Id 83702

Name: Lawrence Denney

Served by:

- Hand-Delivery to
- Deposit in the designated courthouse mailbox
- By deposit in the U.S. Mail 6/15/22 addressed as follows: Secretary of State, 450 N. 4th, Boise, ID 83702

Name: Bradley Andrews

Served by:

- By deposit in the U.S. Mail 6/15/22 addressed as follows: Bar Counsel, 525 W. Jefferson, Boise, ID 83702

Name: Lauren McLean

Served by:

- By deposit in the U.S. Mail 6/15/22 addressed as follows: Mayor McLean, 150 N. Main, Boise ID 83702

Name: Ryan Lee

Served by:

- By deposit in the U.S. Mail 6/15/22 addressed as follows: Boise Chief of Police, 333 N. Mark Stall Place, Boise, ID 83704



Richard Keavy

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
)
)
)

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_qc_ens_c_no_I.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

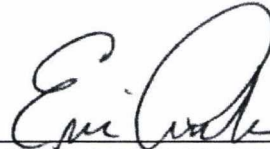
IT IS HEREBY ORDERED that Mr. Keavy’s Complaint is dismissed.

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. . . “

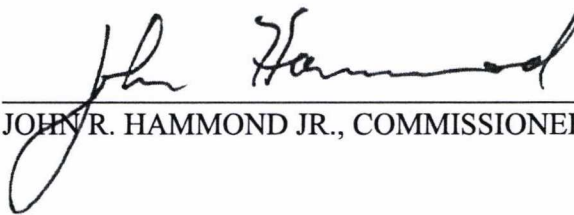
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22nd
day of March 2022.



ERIC ANDERSON, PRESIDENT

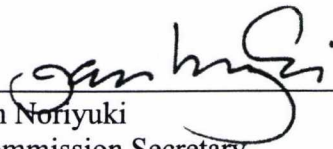


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF RICHARD KEAVY’S) CASE NO. QWE-T-21-14
FORMAL COMPLAINT AGAINST QWEST)
CORPORATION D/B/A/ CENTURYLINK)
) ORDER NO. 35396
)
)

On December 2, 2021, Richard Keavy filed a Formal Complaint against Qwest Corporation d/b/a/ CenturyLink QC (“Company”). Mr. Keavy claimed that the Company failed in its contractual obligations to him when he used the Company’s Call Trace¹ (*57) system. Following formal proceedings, on March 22, 2022, the Commission entered its Final Order No. 35351 (“Final Order”) dismissing the Complaint for lack of jurisdiction. The Final Order provides:

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 public utilities laws. *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.

¹ Call Trace allows a customer to dial *57 to initiate an automatic trace of the last call received. *See Company Response* at 2.

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 No. 35351 (footnotes omitted).

Pursuant to *Idaho Code* § 61-626 and Rule 331, IDAPA 31.01.01.331, interested persons were given twenty-one (21) days following entry of the Final Order in which to petition for clarification and/or reconsideration. On April 12, 2022, Mr. Keavy emailed the Commission Secretary and Commission counsel a correspondence titled: “Motion for Reconsideration of ‘closed’ Case #QWE-T-21-14 on 4/12/2022.” The Company was not included as a recipient of the email.

Having reviewed the record, the arguments of the parties, and all submitted materials, the Commission denies Mr. Keavy’s “Motion for Reconsideration” (“Petition”).

COMMISSION FINDINGS AND DECISION

The Commission finds that Mr. Keavy’s Petition does not meet the substantive nor procedural requirements for a petition for reconsideration. Rule 331.01 provides:

Petitions for reconsideration must set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is *unreasonable, unlawful, erroneous or not in conformity with the law*, and a statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted.

IDAPA 31.01.01.331.01 (emphasis added). In the Petition, Mr. Keavy does not set forth any specific grounds for reconsideration concerning the Commission’s jurisdiction, nor does he indicate the nature and quantity of evidence he would offer to show the Commission’s Final Order was “unreasonable, unlawful, erroneous[,] or not in conformity with the law.” *Id.* Rule 331.03 provides that “the petition . . . must state whether the petitioner . . . requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories.” IDAPA 31.01.01.331.03. The Petition does not contain a request for an evidentiary hearing, written briefing, additional comments, nor a request for interrogatories.

Additionally, the Commission finds that the Petition was not properly served on all parties. Pursuant to Rule 63, “[a]ll [petitions] . . . must be served upon the representatives of every party of record concurrently with filing with the Commission Secretary.” IDAPA 31.01.01.063.01. Similarly, Rule 64 provides that “[e]very document that is filed with the Commission and intended to be part of the record for decision must be attached to or

accompanied by proof of service . . .” IDAPA 31.01.01.064. The Commission finds that Mr. Keavy failed to serve his Petition on all parties or provide the Commission with proof of service.

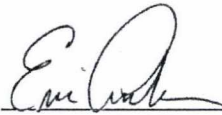
Pursuant to Rule 332, “[g]rounds for reconsideration or issues on reconsideration that are not supported by specific explanation may be dismissed.” IDAPA 31.01.01.332. Further, Rule 65 provides that “[d]efective, insufficient or late pleadings may be returned or dismissed . . .” IDAPA 31.01.01.065. Based upon the Petition’s lack of specific grounds for reconsideration, supporting argument, and proper service, the Commission denies the Petition.

ORDER

IT IS HEREBY ORDERED that the Petition for Reconsideration is denied.

THIS IS A FINAL ORDER DENYING RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this case may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. *See Idaho Code* § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 4th day of May 2022.



ERIC ANDERSON, PRESIDENT

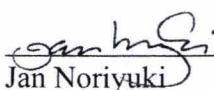


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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