

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 18, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:02 a.m. on Friday, January 18, 2013, with a quorum present.

UNANIMOUS CONSENT REQUEST: **Chairman McKenzie** presented a unanimous consent request to make a clerical correction to a motion made at the January 16, 2013 meeting for the rules of the Department of Administration. The motion was to accept **Docket No. 38-0408-1202** but rejecting Rule Nos. 201, 313 and to reject Rule 302 except for Subsection e. The reference should have been to Rule 302.01.e.

A similar motion was made on **Docket No. 38-0406-1202** which was accepted except for Rule Nos. 201, 313 and 302.e. Rule Nos. 201 and 313 are rejected in **Docket Nos. 0406 and 0408** but **Docket 0406.302** does not have a Subsection e. The motion should have been for **Docket 0406.302.04**. Subsection 04 refers to maintenance and improvements which are substantially similar to **Docket 0408.302.01.e**.

The changes are significant enough to bring them to the Committee's attention but they are not substantively enough to change the motion and the debate that we had and, unless there is an objection, by unanimous consent, the minutes will reflect that these corrections be made. No objections were heard.

RS 21734 **Concurrent Resolution to Recognize Power County on its 100th Anniversary**
Senator Guthrie stated the purpose of **RS 21734** is to recognize Power County's 100th anniversary. Power County was created by an act of the legislature in 1913 and was given their name because of the hydroelectric plant development at American Falls on the Snake River. The town had to be moved to create the 160 acre reservoir that holds 1.7 million acre feet of water serving 500,000 acres, generating 112,420 kilowatts of power and providing recreation opportunities. Their 100th anniversary celebration will be held on February 16,2013.

MOTION: **Senator Davis** moved to send **RS 21734** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced **Brandon D. Woolf** who was appearing before the committee for confirmation of his appointment as Controller to the Office of State Controller (Controller's Office). **Mr. Woolf** stated that he has been at the Controller's Office since 1997 as an intern and then progressed to a training specialist in the payroll division. The State Controller's role is to be a good fiscal steward of the citizen's money. **Mr. Woolf's** vision for the Controller's Office is to be fiscally responsible and continue to move forward with the same business procedures including great customer service for the agencies and state employees.

Senator Davis asked what educational background do you have for the performance of your responsibilities and do you plan on seeking further educational opportunities? **Mr. Woolf** stated that he had grown up on a dairy farm where he learned to work hard and maintain integrity and ethics from an early age. He believed that his Master of Business Administration (MBA) degree and 15 years experience in the Controller's Office had prepared him for the position of Controller. **Senator Davis** asked **Mr. Woolf** if he believed that he would need to return to school to augment his skills for the performance of his duties or did he believe his MBA coupled with his on the job experience will be sufficient to perform his duties. **Mr. Woolf** explained that he thought his MBA coupled with his experience in various positions in the Controller's Office would be sufficient to perform the duties of the position of State Controller.

Chairman McKenzie thanked **Mr. Woolf** for his attendance and advised him that the committee would vote on the confirmation at their next meeting.

Chairman McKenzie introduced Paul Kjellander, President of the Idaho Public Utilities Commission (Commission) to present the pending rules.

DOCKET NO.
31-4101-1201

31.41.01-Rules Governing Telephone Customer Relations.

Paul Kjellander explained that the deregulation of the telecommunication sector began in 1988. Since that time, there has been a tremendous evolution in technology and advancement in the telecommunication industry. In the last decade the legislature took another step to deregulate prices for the previously regulated monopolies within the State of Idaho. This sent a significant policy statement that the legislature believed that there was sufficient competition to warrant price deregulation.

The rules that relate to the telephone industry in the State are part of the legacy regulation. CenturyLink proposed to seek a waiver for Rule 502 that said a telephone company that is regulated has to restore its outages within a 24 hour period. In the event those standards couldn't be met, the customer would receive up to one month's service. Initially, CenturyLink had asked for a complete waiver of that rule. Through the negotiated rulemaking process they came up with a settlement. The Commission accepted the settlement but refused to accept the entire waiver. Instead, the Commission took a settlement which changed the response time to 48 hours for the restoration of service and the customer credit would go away. This now gives them a competitive playing field in the environment of the industry. There has been a huge shift in the numbers of landlines going from over 700,000 to today's 400,000. The packaging within the industry include landlines. Wireless has had a significant impact on the shifting changes of technology and the way in which customers use telephony today.

The intent behind the rule was to try to create a competitive environment for the formally price regulated telephone companies recognizing the competition that exists in the state and honoring the direction the legislature went when they initially said the price regulation was necessary for the companies because of the competition. None of the other providers of telephone services have to comply with any of these rules.

Senator Davis asked **Mr. Kjellander** to clarify the Commission's reasoning for promulgating this rule. **Mr. Kjellander** answered that telephony has changed dramatically. When you start to look at creating a level playing field you see legacy regulations that apply only to what was previously the regulated telephone monopoly. The other carriers that come in and compete in the marketplace for customers do not have to comply with the same rules and regulations. The perspective of the Commission, in terms of accepting the settlement, was to recognize that customer service is still an important component. In today's environment if a customer does not like the service that is provided they can move to another carrier. The legislature ruling that price deregulation should exist because of that competition is an overreaching policy statement. **Senator Davis** asked why Rule 502.01.a as originally written, was not rejected. **Mr. Kjellander** explained that the main objection was the forced requirement within the rules to make a payment to the customer if service was not restored in the allotted time. When the settlement came back and extended the length of time but eliminated the payment to customers, CenturyLink thought that was reasonable.

Senator Werk pointed out that there are some changes under the compliance standard. The old rule required that at least 90 percent of the out of service trouble complaints would be cleared. Under this new rule, that percentage would drop to 80 percent. If there is a standard here but no tracking mechanism, what use is the standard? **Mr. Kjellander** clarified that in years past the 90 percent level was the threshold. There has not been an out of compliance complaint invoked in the last 25 years. A provider has to be doing very poorly to hit the 80 percent trigger. The 90 percent as a competitive component can be used against a business in a negative way, again to try to level the playing field.

Senator Stennett asked for clarification on the drop in landline usage from 700,000 to 400,000. Isn't the elderly the greater percentage of the population who still have landlines? These individuals need basic public and health and welfare services. She questioned the advisability of the Commission moving from 24 to 48 hours for restoration of service without any compensation to the customer. If the providers are not held to a financial constraint, why the shift from 24 to 48 hours? **Mr. Kjellander** stated that it was part of the negotiated settlement. Instead of having to fight over the 24 versus 48 time frame it still allowed the ability to put pressure on the regulated utility. The providers do not want to lose customers, hence it benefits them to restore the service as quickly as possible.

Senator Hill asked if a telephone provider does not restore service how does the Commission address the matter? **Mr. Kjellander** answered that the loss of customers is the biggest stimulus for the providers to restore services as quickly as possible. The goal of the Commission is to have compliance rather than taking punitive action against a provider.

Chairman McKenzie informed the audience that typically it is not the committee's practice to take public testimony on rule dockets. The individuals signed up to speak were: Josh Lunn, representing himself, Tina Wilson representing Western Alliance for Economic Development and Peggy Munson, representing American Association of Retired Persons (AARP); all opposed to the rule change. Ed Lodge, representing Century Link, was in favor of the rule change.

Senator Werk asked that AARP be allowed to speak to give their perspective on this rule since there seemed to be a degree of generational issues in this rulemaking. **Peggy Munson**, AARP, stated that she represented 178,000 members across the State of Idaho. They help people 50 and over to make choices and be independent which is beneficial to them and society. The membership is in opposition to **Docket 31-4101-1201** regarding the Telephone Customer Relation's Rules.

AARP opposes the pending rule because they believe the rule would unnecessarily erode important consumer protections, leaving the State's most vulnerable citizens with less recourse if the quality of basic telephone service deteriorates. Telephone landlines are lifelines for elderly Idahoans, especially in the rural communities. The pendants of the medical alert and life status systems use landlines to operate alert systems in homes.

Senator Hill asked if AARP members expressed a frustration that their service was unavailable and had anyone collected the one month rebate on their telephone bill because the provider did not get it repaired in the allotted time. **Ms. Munson** replied that none of the members have mentioned an outage of this nature. What they have mentioned is the value of their landline. **Senator Hill** asked then why the suspicion that the change in this rule would alter the quality of the service they have been receiving? **Ms. Munson** responded that extending the time of repair service from 24 to 48 hours is their main concern.

Senator Winder asked if the language in Rule 502.01.a goes back to the language of the old rules, will that eliminate the majority of your member's concerns? **Ms. Munson** stated that going back to the old language would eliminate their concerns.

Senator Lodge stated, pursuant to rules of the Senate 39 (H), of the Idaho State legislature, she has a conflict but still wishes to vote on **Docket No. 31-4101-1201**.

MOTION:

Senator Winder moved to approve **Docket No. 31-4101-1201** rejecting Rule 502.01.a. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:10 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary