

January 9, 2025

*Via Email:*  
*psc@utah.gov*

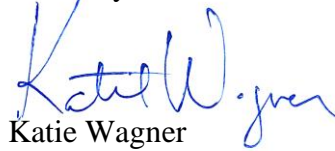
Gary Widerburg  
Commission Administrator  
Utah Public Service Commission  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84111

**RE: Docket No. 24-049-06**  
**Formal Complaint of Kathy Funk Against CenturyLink**

Dear Mr. Widerburg:

Attached for filing is CenturyLink's Motion to Dismiss in the above-referenced docket.

Sincerely,



Katie Wagner  
Senior Corporate Counsel

Attachments  
cc: Service List

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

FORMAL COMPLAINT OF KATHY FUNK )  
AGAINST CENTURYLINK ) **Docket No. 24-049-06**  
)  
)

**CENTURYLINK’S MOTION TO DISMISS**

COMES NOW, Respondent Qwest Corporation d/b/a CenturyLink (“CenturyLink”), by and through its undersigned counsel and submits its Motion to Dismiss in reference to the above-captioned Formal Complaint (“Complaint”) of Kathy Funk (“Complainant”) as follows:

1. On December 10, 2024, the Utah Public Service Commission entered a Notice of Filing and Comment Period requiring that CenturyLink respond by January 9, 2025, to the following allegations and requests for relief contained in the Complaint:

- a. Complainant alleges that her caller ID is not working.
- b. Complainant alleges that one of her neighbors may be hooking up to her line and somehow stealing services.
- c. Complainant alleges difficulty paying her bill over the phone.

2. On January 6, 2025, the Division of Public Utilities entered its comment into this docket, stating they had no recommendation regarding this docket.

3. CenturyLink respectfully moves this Commission to dismiss with prejudice all claims and allegations because the Complaint on its face shows that no statute or regulation is at issue. The Complaint therefore fails to state a claim upon which relief may be granted. In support thereof, CenturyLink states as follows:

**LEGAL AUTHORITY AND PERTINENT FACTS**

4. The Utah Rules of Civil Procedure and case law interpreting those rules are persuasive authority in Commission adjudications. Utah Admin. Code § 746-1-105.

5. The Complaint is required to allege “a legal right, the invasion of which by defendant has caused damage to the plaintiff.” *Zubiate v. Am. Family Ins. Co.*, 2022 UT App 144, ¶ 16, 524 P.3d 148.

6. A complaint fails to state a claim when it “appears to a certainty that the plaintiff would be entitled to no relief under any state of facts which could be proved in support of the claim.” *Id.* at ¶ 29.

7. Here, Complainant has not alleged a right to relief. Utah Admin. Code § 746-240 (Telecommunication Service Rules) contains no provision governing consumer rights over alleged issues with (a) caller ID, (b) potential trespass by third party neighbors, or (c) difficulty paying bills.

8. On or about December 11, 2024, CenturyLink’s testing of Complainant’s line shows the line active and test calls do ring through to voicemail. CenturyLink’s testing also showed that Complainant has caller ID. Consequently, it appears any issue occurring would exist on the Complainant’s side rather than being an issue with CenturyLink’s service.

9. In response to CenturyLink’s December 11, 2024, analysis, Complainant indicated that she would get a new telephone to see if that resolves her caller ID issue. At present, CenturyLink is unaware if Complainant has purchased a new telephone.

10. Complainant has not alleged that she has an actionable right to caller ID services, and no statutory or regulatory provision provides Complainant with an actionable right to caller ID. As a result, Complainant’s caller ID allegations fail to state a claim as a matter of law and must be dismissed. Notwithstanding this, CenturyLink’s investigation determined that Complainant does have caller ID but is experiencing a malfunction of the personal telephone equipment inside Complainant’s home.

11. Complainant has not alleged that she is being improperly billed, and therefore no actionable violation of Utah Admin. Code § 746-240-4 (Account Billing) exists. Furthermore, on

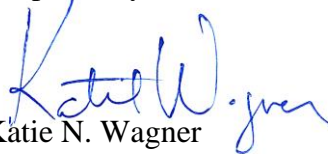
January 8, 2025, Complainant filed correspondence with the Public Service Commission confirming she was able to properly pay her December 2024 bill. As such, no actionable issue exists relating to alleged difficulty paying bills, and this claim must be dismissed as well.

12. While CenturyLink is unaware of any potential trespass by third party neighbors, Complainant's allegations here are against neighbors and not CenturyLink. Therefore, Complainant has not alleged "a legal right, the invasion of which by defendant has caused damage to the plaintiff." *Zubiate v. Am. Family Ins. Co.*, 2022 UT App 144, ¶ 16, 524 P.3d 148. Consequently, Complainant's allegations related to third parties must be dismissed.

WHEREFORE, CenturyLink respectfully requests that this Complaint be dismissed with prejudice against refiling.

Dated this 9<sup>h</sup> day of January 2025.

Respectfully submitted,



Katie N. Wagner  
Senior Corporate Counsel  
CENTURYLINK

(405) 669-8712

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ATTORNEYS FOR QWEST CORPORATION DBA  
CENTURYLINK

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing *CenturyLink's Motion to Dismiss* was sent via email to the following parties on the date indicated below:

**Complainant**

Kathy Funk..... [Fshg777billy@gmail.com](mailto:Fshg777billy@gmail.com)

**Utah Attorneys General**

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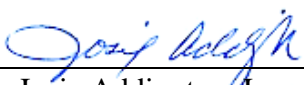
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[ocs@utah.gov](mailto:ocs@utah.gov)

DATED this 9<sup>th</sup> day of January 2025.

CENTURYLINK

By:   
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Josie Addington, Legal Assistant