

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF**

**FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL**

DATE: JANUARY 4, 2013

**SUBJECT: CERTAIN TELEPHONE CORPORATIONS' FAILURE TO PAY THEIR
REGULATORY ASSESSMENTS FOR 2011 AND 2012, CASE NO. GNR-T-
13-01**

Idaho Code §§ 61-1001 and 62-611 require public utilities (e.g., telephone corporations) to pay a special regulatory fee to defray the Commission's supervisory and regulatory expenses. Based upon the appropriation approved by the Legislature, the Commission determines the proportional assessment for each utility based upon the utility's gross intrastate operating revenues. *Idaho Code* §§ 61-1003 and 61-1004. *Idaho Code* § 61-1004(3) states that in no case shall the annual regulatory fee be less than \$50.

The Commission's fiscal officer reports that about 100 Title 62 telephone corporations have not paid their regulatory assessments for calendar years 2011 and 2012. *Idaho Code* § 62-611 provides that telephone corporations subject to the Commission's Title 62 jurisdiction shall pay to the Commission a special regulatory fee as determined by the Commission pursuant to Chapter 10, Title 61, Idaho Code. The regulatory fees are payable in semi-annual installments in May and November of each year. Staff believes that many of these companies have simply gone out of business or no longer conduct business in Idaho.

Staff maintains that these companies have been served with assessment letters and late notices at their designated service address. The Commission's Procedural Rule 16.03 provides that all utilities shall designate a person as their Idaho agent to be served with summonses and complaints. Utilities are "responsible for maintaining on file with the Commission Secretary the current name, mailing address and e-mail address of the person designated as the agent to receive service." IDAPA 31.01.01.016.03. Staff further maintains

that most of these companies are no longer registered as business entities in “good standing” with the Idaho Secretary of State.

STAFF RECOMMENDATION

Staff recommends the Commission issue an Order to Show Cause and Notice of Hearing to these Title 62 corporations to show cause why the Commission should not cancel their authority for failure to pay their 2011 and 2012 regulatory assessments, pursuant to *Idaho Code* § 62-611.

For those companies that fail to pay their regulatory fees, Staff recommends the Commission revoke or cancel their “Certificates” or registrations as a Title 62 telecommunications carrier.¹ Staff further recommends that the Commission revoke/cancel their price lists or tariffs, and that Idaho local exchange companies be ordered to deny or prohibit interconnection or the carriage of telecommunications traffic from these Title 62 corporations until such time as the regulatory fees have been paid.

Consistent with *Idaho Code* § 61-202, Staff recommends the Commission consider designating a hearing examiner to conduct the show cause inquiry and to create the hearing record. *Idaho Code* § 61-615 provides that service may be made personally or by mailing a copy of the Notice of Show Cause via registered prepaid postage. *Idaho Code* §§ 61-615; 62-619(1); IDAPA 31.01.01.016.

COMMISSION DECISION

Does the Commission wish to issue an Order to Show Cause and Notice of Hearing to those Title 62 companies that have allegedly not paid their 2011 and 2012 regulatory assessments?

Does the Commission wish to appoint a hearing officer to conduct the Show Cause hearing and create the hearing record?



Don Howell
Deputy Attorney General

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¹ As part of its Title 62 registration, the Commission issues a “Certificate” or registration to some or all Title 62 telephone corporations. As the Commission explained in its Procedural Order No. 26665, this process was an administrative mechanism for registering these companies. See also Rule 114, IDAPA 31.01.01.114.