DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

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COMMISSIONER SMITH

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WORKING FILE

FROM:BRAD PURDY

DATE:JULY 15, 1998

RE:CASE NO. ALB-T-98-01; PETITION OF ALBION TELEPHONE COMPANY TO EXPAND SERVICE AREA

On June 3, 1998, the Commission issued a Notice of Modified Procedure soliciting comments in response to the petition of Albion Telephone Company for authority to amend the Company’s Certificate No. 257 expanding the boundary of Albion’s Almo exchanges by adding an approximately 11 square mile currently unserved area adjacent and contiguous to the Almo exchange.  The City of Rocks national monument is located within the subject area.  Albion has received requests for payphones to be installed at the City of Rocks.  Albion contends that because of the location of its existing facilities, it is the telephone company best situated to introduce any new service to the subject area and to respond to existing and future requests for service quickly and cost effectively.  Albion contends that the requested amendment will not affect the service area boundaries of any other certificated telecommunications carrier and will not injure or interfere with the operation of any line, plant or system of any other public utility already constructed.  Finally, Albion notes that the granting of its Petition would not require the Company to construct or expand any facilities other than normal extensions of service within its service area to the City of Rocks.

The only party to file comments in response to Albion’s Petition was the Commission Staff.  Staff supports Albion’s Petition.  Staff notes that, for purposes of Universal Service Fund (USF) eligibility, the federal Telecommunications Act of 1996, 47 USC §§ 151 et seq. (the Act), requires that state regulatory commissions establish “service areas” for rural telephone companies that are identical to “study areas” established by the FCC.  Section 214(e)(5) of the Act states:

In the case of an area served by a rural telephone company, “service area” means such company’s “study area” unless and until the Commission and the states, after taking into account recommendation of a Federal-state Joint Board instituted under Section 410(c), establish a different definition of service area for such company.

If Albion’s USF service area is to be the same as the study area, Staff states, then the FCC must change the Company’s study area before this Commission can change its service area.  The FCC currently has a “freeze” on study area amendments, but has established three criteria for granting waivers to this freeze as follows:

First, that the change in study area boundaries does not adversely affect the Universal Service Fund (USF) support program; second, that the state commission(s) having regulatory authority does not object to the change in study area boundaries; and third, that the public interest supports the change in study area boundaries.

FCC Docket No. DA 95-1403, Order No. AAD No. 95-78.

Staff reasons that if this Commission supports Albion’s request to add the City of Rocks to its study area, it would appear to meet all three of the foregoing criteria and Staff expects such a request of the FCC to be successful.  If the FCC adds the City of Rocks to the Company’s study area, Staff notes, and the Company offers the full range of services required of an ETC to the new area, as Albion has indicated it will do, then in accordance with Section 214(e)(5), Staff believes that this Commission should add the new area to the Company’s “service area” for universal service support.

In conclusion, Staff contends that Albion is the most logical company to provide basic telephone service to the City of Rocks area.  Service from Albion is likely to be the most economical option for the customers, Staff contends, and Albion is capable of providing the full range of services currently required of an eligible telecommunications carrier.  Consequently, Staff recommends that the Commission approve Albion’s request and amend the Company’s certificate to include the requested new territory.

Staff also recommends that the Commission offer its support in its final Order in this case to Albion’s request to add the City of Rocks to its study area.  Staff recommends that, contingent upon the FCC amending the Company’s study area to include the City of Rocks, the Commission also approve the Company’s request to include the City of Rocks in Albion’s service area for universal service support.

Commission Decision

Does the Commission wish to grant Albion’s Petition?  With the provision suggested by Staff?

Brad Purdy

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