

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE PETITION OF</b>	)	<b>CASE NO. BTC-T-97-1</b>
<b>BLACKFOOT TELEPHONE COOPERATIVE,</b>	)	
<b>INC. TO BE DESIGNATED AS AN ELIGIBLE</b>	)	
<b>TELECOMMUNICATIONS CARRIER.</b>	)	<b>ORDER NO. 27272</b>
	)	

On November 21, 1997, Blackfoot Telephone Cooperative, Inc. filed a Petition asking that the Commission designate it as an eligible telecommunications carrier in its service area and grant a waiver of the toll control portion of the toll limitation requirements for its Lifeline customers. A company designated as an eligible telecommunications carrier (ETC), is then eligible to receive federal universal service support. Blackfoot's customer base in Idaho is generally comprised of a few businesses, including Powell Ranger Station, a few Idaho government offices, a resort and a few residential customers who work at these businesses. Although located in Idaho, this Powell, Idaho service area is part of Blackfoot's Montana study area and is associated with the Montana 648 LATA. Blackfoot asserts that it meets the requirements for designation as an ETC with one exception. Blackfoot maintains that it cannot offer "toll control" service at this time and requested that it be granted a waiver of toll control requirements.

In Order No. 27237, issued December 2, 1997, the Commission found that Blackfoot's Petition could be processed under Modified Procedure and requested interested persons file written comments no later than December 16, 1997. Only the Commission Staff filed written comments.

Based upon a review of the Petition, federal requirements and the Staff's comments, the Commission grants Blackfoot's Petition.

**BACKGROUND**

Before a telecommunications carrier may receive federal universal service support, it must be designated as an "eligible telecommunications carrier" by the appropriate state regulatory commission. Federal universal service support includes high-cost support, reimbursement for

discounts provided to low-income customers in the Lifeline and Link Up programs,<sup>1</sup> and federal support for health care providers.

To be designated as an ETC, the company must offer “services that are supported by federal universal service support mechanisms . . . , either using its own facilities or a combination of its own facilities and resale of another carrier’s services” and “advertise the availability of such services and the charges therefore using media of general distribution.” 47 U.S.C. § 214(e). In its Universal Service Order released in May 1997, the FCC designated the following services as “core” universal services and must be provided by the carrier in order to qualify as an ETC:

- single-party service
- voice grade access to the public switched network
- touch-tone service
- access to emergency services, including 911 and E911
- access to operator services
- access to interexchange service
- access to directory assistance
- toll limitation services for qualifying low-income consumers

FCC’s Universal Service Order, CC Docket No. 96-45, FCC 97-157 at ¶¶ 61-82 (codified at 47 C.F.R. § 54.101). Blackfoot certified that it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area with the exception of toll control services discussed below.

The FCC authorized state commissions to grant a waiver of the requirement of providing toll control or other toll limitation services “upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing . . . toll limitation.” FCC’s Universal Service Order (FCC 97-157), ¶ 388; codified at 47 C.F.R. 54.101(c). Any waiver period should be limited to the existence of those exceptional circumstances and not extend beyond the time necessary for that eligible telecommunications carrier to complete network upgrades. *Id.*

The Universal Service Order also requires that the Commission designate the ETC service area. An ETC service area is defined as a “geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms.”

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<sup>1</sup>The FCC Lifeline program currently reduces charges for low-income consumers in those states participating in the program. Link Up assists low-income subscribers to acquire new telephone service by paying half of the first \$60.00 charge for the installation of service. Idaho participates in both programs.

47 U.S.C. § 214(e)(5). Where the ETC is also a rural telephone company as defined in the Telecommunications Act of 1996, the service area is defined as the carrier's study area. *Id.*

### **BLACKFOOT'S PETITION**

Blackfoot is a telephone cooperative that serves approximately 19 business lines and 23 residential lines in Powerll, Idaho. It asserts that it offers all of the designated core services outlined above (except toll control) using its own facilities and generally advertises the availability of those services and that it is a rural telephone company. Blackfoot, therefore, requested designation as an ETC under the federal Telecommunications Act of 1996.

Blackfoot also requested that the Commission apply the ETC designation throughout its Idaho study area which includes the areas identified in its Certificate of Public Convenience and Necessity. Finally, Blackfoot, like all other carriers requesting ETC status in Idaho, requested the Commission to suspend or waive any requirement that it provide "toll control" as part of the toll limitation services required to be offered by ETCs. Blackfoot stated it does not have the technical ability to provide toll control. Blackfoot requested the Commission grant it a waiver of "toll limitation services" in accordance with the FCC's Universal Service Order, (FCC 97-157), ¶ 388.

### **STAFF COMMENTS**

Staff confirmed that Blackfoot offers the above-listed services with the exception of toll control as defined by the FCC's Universal Service Order, at ¶ 383, codified at 47 C.F.R. 54.400(c) (effective January 1, 1998). Staff Comments at 2.

Blackfoot also requested the Commission grant it a waiver of the FCC toll control requirement. Staff noted that upon a finding that exceptional circumstances exist which might preclude an otherwise eligible carrier from being designated as an ETC, the FCC authorized state commissions to grant a waiver of the requirement of providing toll control for limited periods. FCC's Universal Service Order, ¶ 388; codified at 47 C.F.R. 54.101(c). Staff found that providing toll control would require substantial integration between the central office switch and the billing records of the customer and significant upgrades to the equipment and/or procedures used by Blackfoot because it does not currently have this ability. Staff Comments at 4. Given the

complexity of toll control services and the time carriers need to evaluate the technical feasibility of such a program, Staff found these circumstances are exceptional within the meaning of the FCC Universal Service Order and recommended granting Blackfoot a waiver of the requirement to provide toll control. *Id.* Staff recommended the waiver be granted for a three-year period, because this is the same period of time the Commission granted to other small Idaho local exchange companies. *Id.* If Blackfoot finds that it needs additional time to meet this requirement, it may petition for an extension prior to the end of the three year waiver period.

In designating a telephone carrier as an ETC, the Commission must also designate the appropriate service and support areas. 47 U.S.C. § 214 (e)(2) and 47 U.S.C. § 214 (e)(5). Blackfoot requested ETC designation for the study areas identified in its Certificate of Public Convenience and Necessity. Staff accepted Blackfoot's self-certification that it is a rural telephone company. Staff Comments at 3. Staff therefore concurred with Blackfoot's request for designation of its Idaho study areas, as identified in its Certificate of Public Convenience and Necessity, as the service area for the ETC designation. 47 U.S.C. § 214 (e)(5). *Id.*

Staff recommended the Commission grant Blackfoot's requests.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Commission has jurisdiction over this matter pursuant to *Idaho Code* § 62-615(1). The Commission finds that Blackfoot, like all other carriers requesting ETC status in Idaho, has requested that the Commission grant it a waiver of the requirement to offer toll control. Given the FCC's acknowledgment that many telecommunications carriers do not possess the technical ability to provide toll control services, the Commission finds there are exceptional circumstances that justify the granting of a waiver in this instance. Accordingly, the Commission grants Blackfoot's waiver request from the toll control requirement for a period of three years or until January 1, 2001.

Having fully reviewed the record in this matter, the Commission finds that Blackfoot is offering those core services (with the exception of toll control) that are to be supported by the federal universal support mechanisms. Blackfoot asserted and the Staff confirmed that it is using its own facilities to offer such services. The Commission further finds Blackfoot generally advertises the availability of such services and its rates using media of general distribution. Consequently,

Blackfoot is in compliance with the requirements of 47 U.S.C. § 214(e). Therefore, the Commission grants Blackfoot ETC status.

In the Petition, Blackfoot requested that its Idaho study area be designated as its ETC service area. In its comments, the Staff noted that 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 recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company." 47 U.S.C. § 214 (e)(5). Since Blackfoot certified it is a rural telephone company under state and federal law, and the Staff accepted this assertion, the Commission hereby designates Blackfoot's Idaho study area as its ETC service area.

### **O R D E R**

IT IS HEREBY ORDERED that the requirement that Blackfoot Telephone Cooperative, Inc.'s request for a waiver from the requirement that it offer toll control services as a component of toll limitation services is granted for a period of three years or until January 1, 2001.

IT IS FURTHER ORDERED that Blackfoot Telephone Cooperative, Inc. is designated as an "eligible telecommunications carrier" within the meaning of the Telecommunications Act of 1996 (47 U.S.C. § 214(e)). Blackfoot Telephone Cooperative, Inc. is hereby designated as an ETC effective January 1, 1998.

IT IS FURTHER ORDERED that Blackfoot Telephone Cooperative, Inc.'s ETC service areas be designated, at this time, as its study area. The Commission specifically reserves the right to revisit the appropriate designation of service areas at such time as it takes up the designation of ETC support areas.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. BTC-T-97-1 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 or in interlocutory Orders previously issued in this Case No. BTC-T-97-1. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* §§ 61-626 and 62-619.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this *23rd*  
day of December 1997.

  
DENNIS S. HANSEN, PRESIDENT

  
RALPH NELSON, COMMISSIONER

  
MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
Myrna J. Walters  
Commission Secretary

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