DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

STEPHANIE MILLER

DAVE SCHUNKE

JOE CUSICK

WAYNE HART

DON HOWELL

BEV BARKER

DAVID SCOTT

WORKING FILE

FROM:CHERI C. COPSEY

DATE:DECEMBER 9, 1997

RE:IN THE MATTER OFCENTURY TELEPHONE OF IDAHO, INC., POTLATCH TELEPHONE COMPANY AND TROY TELEPHONE COMPANY’S (D.B.A. TDS TELECOM) - CASE NOS. CEN-T-97-1, POT-T-97-1, TRO-T-97-1

If the Commission designates CenturyTelephone of Idaho, Inc., Potlatch Telephone Company and Troy Telephone Company (d.b.a. TDS Telecom) as eligible telecommunications carriers (ETC), then each Petitioner would be eligible to receive federal universal service support.  The Petitioners requested that they be granted waivers of toll control requirements and be designated as rural telephone companies for the purposes of receiving exemptions and other benefits in accordance with the federal Telecommunications Act.

In Order No. 27208 issued November 10, 1997, the Commission found that each of these matters could be processed under Modified Procedure.  The Commission requested that interested persons file written comments regarding these Petitions no later than December 1, 1997.  Only the Commission Staff filed written comments.

BACKGROUND

Before a telecommunications carrier may receive federal universal service support, it must be designated as an “eligible telecommunications carrier” (ETC) 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,(footnote: 1) and federal support for schools and health care providers.  Designation as a rural telephone company exempts the rural telephone company from the Telecommunication Act’s interconnection and resale requirements until the company has received a bona fide request for interconnection, services, or network elements, and the state Public Utilities Commission determines that such request is technically feasible, consistent with Section 254 of the Telecommunications Act of 1996 and not unduly economically burdensome.  47 U.S.C. § 251(f)(1).

A “rural telephone company” is defined under state and federal law as:

. . .  a local exchange carrier operating entity to the extent that such entity

(a) provides common carrier service to any local exchange carrier study area that does not include either-

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

Idaho Code §62-603 (10); 47 U.S.C. § 153 (37).

To be designated as an ETC, each Petitioner 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 that 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).  Each Petitioner certifies 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 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.”  47 U.S.C. § 214(e)(5).

CENTURY’S, POTLATCH’S AND TROY’S PETITIONS

On October 20, 1997, Century Telephone of Idaho, Inc., Potlatch Telephone Company and Troy Telephone Company (d.b.a. TDS Telecom) filed a joint Petition requesting that the Commission designate each company as both a rural telephone company and an eligible telecommunications carrier pursuant to the Telecommunications Act of 1996 for the purposes of receiving federal universal service support, exemptions and other benefits in accordance with the federal Telecommunications Act. Each Petitioner asserted that each offers all of the designated core services outlined above using its own facilities and generally advertises the availability of those services.

The Petitioners further requested the Commission apply the ETC designation throughout each Petitioner’s respective Idaho study areas which include the areas identified in each Petitioner’s Certificate of Public Convenience and Necessity.  The Petitioners also requested the Commission suspend or waive any requirement that the Petitioners provide “toll control.”

STAFF COMMENTS

Staff confirmed that, regardless of the criteria used, each Petitioner clearly qualified as a rural telephone company.  Staff Comments at 3

The Petitioners also requested that the Commission suspend or waive any requirement that they provide “toll control” services.  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). The FCC also suggested that any waiver period 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.  Although the FCC’s Order speaks to requiring ETCs to install toll blocking in any switch upgrade, the Universal Service Order is silent as to requiring toll control on any switch upgrades.  Universal Service Order ¶ 388.

Given the complexity of toll control services and the time the Petitioners need to evaluate the technical feasibility of such a program, the Staff recommended that the Commission grant the Petitioners’ waiver requests for a period of three years.  Staff Comments at 4-5.

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). the Petitioners requested ETC designation for the study areas identified in each Petitioner ’s Certificate of Public Convenience and Necessity issued by the Commission.  The Petitioners requested the ETC designation apply throughout each Petitioner’s respective Idaho study areas.  The Telecommunications Act of 1996 Act defines the ETC “service area” as the “geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms.”  47 U.S.C. § 214 (e)(5).  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.”  Id.

Staff has already recommended that these Petitioners be designated as rural telephone companies.  Staff therefore concurs with the request for designation of each Petitioner’s entire Idaho study area, as identified in the Petitioner’s respective Certificate of Public Convenience and Necessity, as the service area for the ETC designation. Staff Comments at 4.

Therefore, Staff recommended the Commission grant Century’s, Potlatch’s and Troy’s Petitions.

Commission Decision

Does the Commission want to designate each Petitioner as a rural telephone company?  Does the Commission want to grant ETC status to each Petitioner?  Does the Commission want to waive the toll control requirement for a period of three years?  Does the Commission want to designate the ETC service area as each Petitioner’s study area as described in its respective Certificate of Public Convenience and Necessity?

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cheri C. Copsey

M:cent971.cc2

**FOOTNOTES**

1:

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.