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BEFORE  THE  IDAHO  PUBLIC  UTILITIES  COMMISSION

IN THE MATTER OF THE PETITION OF)CASE  NOS.  CEN-T-97-1

CENTURY TELEPHONE OF IDAHO, INC.,)POT-T-97-1

POTLATCH TELEPHONE COMPANY AND)TRO-T-97-1

TROY TELEPHONE COMPANY (d.b.a. TDS)

TELECOM) FOR DESIGNATION AS)

ELIGIBLE TELECOMMUNICATIONS )

CARRIERS IN THE STATE OF IDAHO PER)COMMENTS OF THE

FCC UNIVERSAL SERVICE REPORT AND)COMMISSION STAFF

ORDER NO.  96-45.)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

COMES  NOW  the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Cheri C. Copsey, Deputy Attorney General, in response to Order No. 27208, the Notice of Petition and Notice of Modified Procedure in Case Nos. CEN-T-97-1, POT-T-97-1 and TRO-T-97-1 issued November 10, 1997, submits the following comments.

BACKGROUND

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 (ETC) 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.  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.”

The Petition is supported by the joint prefiled testimony of Clay Bailey, Regulatory Affairs Manager for Century, and Gail Long, External Relations Manager for TDS.

On November 10, 1997, the Commission issued Order No. 27208 which gave public notice of the Petition and notice that the proceeding would be conducted according to the Commission’s Rules for Modified Procedure.

STAFF ANALYSIS

1.  “Rural Telephone Company” Designation.

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 a 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).

Bailey and Long testify that each Petitioner satisfies the criteria to qualify as a “rural telephone company.”  Joint Testimony of Gail Long and Clay Bailey, pp. 3-5.  The Petitioners’ Annual Reports, census data and other sources support these claims.  Therefore, Staff recommends each Petitioner be designated as a rural telephone company.

2.  Designation as “Eligible Telecommunications Carrier.”

Before a telecommunications carrier may receive federal Universal Service Fund support, it must be designated as an eligible telecommunications carrier by the state regulatory commission.  47 U.S.C. § 214(e)(2).  Federal universal service support includes high-cost support, reimbursement for discounts provided to low-income customers in the Lifeline and  Link Up programs, and support for health care providers.

To be designated as an eligible telecommunications carrier, a LEC must offer “services that are supported by federal universal service support mechanisms under Section 254(c), 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 Order released May 8, 1997, the FCC designated the following services as required “core” services “supported by universal service support mechanisms under Section 254(c)” that must be provided by the LEC 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).  The Petitioners certify that, with the exception of toll control, each Petitioner meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area.

Staff confirmed that each Petitioner offers the above-listed services using its own facilities and generally advertises the availability of these services with the possible exception of toll control as defined by the FCC’s Universal Service Order, (FCC 97-157), at ¶ 383, codified at 47 C.F.R. 54.400(c) (effective January 1, 1998).

The Petitioners request the Commission grant a waiver of the toll control requirement, and as explained more fully below, Staff recommends granting a waiver.  Therefore, Staff finds the Petitioners meet the minimum criteria for designation as an eligible telecommunications carrier, and recommends granting this request.

3.  ETC Service Area.

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 Petitions 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.

4.  Suspension of Toll Control Requirement.

Toll limitation is one of the services that must be provided in order to be eligible for the federal universal service support mechanisms.  FCC’s Universal Service Order (FCC 97-157), ¶82.  The FCC’s definition of toll limitation includes both toll blocking, which allows customers to block toll calls, and toll control, which allows customers to limit in advance their toll usage per month or billing cycle.  Id. at ¶ 383; 47 C.F.R. 54.400(a)(4) (effective January 1, 1998).  Bailey and Long testify that each Petitioner has the ability to provide toll blocking, but not toll control.  Joint Testimony of Gail Long and Clay Bailey, p. 3.  Petitioners, therefore, request the Commission suspend or waive any requirement that the Petitioners provide “toll control.”

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.

Providing toll control requires substantial integration between the central office switch and the billing records of the customer.  To provide toll control services will require significant upgrades to the equipment and/or procedures used by the Petitioners, because none of the Petitioners currently has this ability.  Such upgrades cannot reasonably be expected to be implemented in a short period of time.

Staff’s experience with the provision of toll control by GTE Northwest, Inc. demonstrates that a period of two to three years is appropriate for the introduction of such a complex service.  Therefore, Staff finds these circumstances to be exceptional and recommends granting a waiver of the requirement to provide toll control to each Petitioner.

In addition, previous experience demonstrates that significant customer education is required for an effective toll control program.  Implementing such a complex effort without ensuring that all the procedures are in place and that proper staff and customer education have been completed invites customer confusion, rather than acceptance.  The Petitioners indicated that toll blocking is being provided and did not seek a waiver for this feature.  Because at least one form of toll limitation will be available to the Petitioners’ customers, there is no need to rush the implementation of toll control, but that it should be implemented in a controlled and orderly manner.  Staff, therefore, recommends the waiver be granted for a three-year period.

SUMMARY OF STAFF RECOMMENDATIONS

1.  The Commission designate each Petitioner as a “Rural Telephone Company.”

2.  The Commission designate each Petitioner as an “Eligible Telecommunications Carrier.”

3.  The service area for the ETC designation be the same as each Petitioner’s entire Idaho study area, as defined in the Petitioner’s Certificate of Public Convenience and Necessity.

4.  Each Petitioner be granted a waiver of the requirement to provide toll control for a period of three years.

DATED  at Boise, Idaho, this            day of December 1997.

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Cheri C. Copsey

Deputy Attorney General

Technical Staff:  Wayne Hart

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