

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF)  
CENTURYTEL OF THE GEM STATE, INC. FOR)  
APPROVAL OF ITS PLAN TO IMPLEMENT)  
INTRASTATE, INTRALATA DIALING PARITY.)**

**CASE NO. CGS-T-99-1**

**ORDER NO. 28067**

)  
)  
)

On April 22, 1999, CenturyTel of the Gem State, Inc. filed an Application with the Commission for an Order approving its intrastate, intraLATA toll dialing parity implementation plan. Because the Commission is required to review toll dialing parity implementation plans on a very concise schedule, the Commission determined that the public interest may not require a formal hearing and proceeded under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through -204. Order No. 28028. In that order, the Commission scheduled a settlement conference. *Id.* An amended Notice of Settlement Conference was issued on May 6, 1999, setting the settlement conference for May 26, 1999.

On April 22, 1999, Gem State also filed a Petition requesting the Commission suspend certain dialing parity obligations imposed by 47 U.S.C. § 251(b)(3) and by FCC Order 99-54 for eighty-eight (88) of its access lines. *See* CGS-T-99-2. The Commission granted the Petition on June 2, 1999. Order No. 28056.

Pursuant to Order No. 28028, Staff and AT&T Communications of the Mountain States, Inc. filed comments on May 18, 1999. Settlement conference was held May 26, 1999. At the settlement conference, settlement was reached among the parties, placed on the record and approved by the Commission pursuant to Commission Rule 274 (IDAPA 31.01.01.274). Tr. pp. 27-30. The parties filed a stipulation with the Commission on June 2, 1999. That stipulation addressed the default carrier for existing customers who did not choose an intraLATA carrier.

Based on the comments filed by AT&T and the Staff, the settlement placed on the record, the parties' stipulation, the law and the Application and implementation plan, the Commission approves the Application and the dialing parity plan as modified below.

## **BACKGROUND**

Following the implementation of the Telecommunications Act of 1996, many states challenged the jurisdictional authority of the Federal Communications Commission ("FCC") to take certain actions. In 1997, the Eighth Circuit Court of Appeals held that the FCC had exceeded its authority when it promulgated rules to implement various sections of the Act. Among other things, the Eighth Circuit held that the FCC lacked jurisdiction to promulgate its dialing parity rules 47 CFR §51.205-51.217. The FCC appealed to the United States Supreme Court. On January 25, 1999, the United States Supreme Court reversed, in part, the Eighth Circuit and held, *inter alia*, that the FCC has jurisdiction to implement the Act's local competition provisions, including those rules addressing dialing parity. *AT&T v. Iowa Utilities Board*, 119 S.Ct. 721 (1999).

In response, the FCC issued FCC Order 99-54 revising the schedule for implementation of dialing parity. Order 99-54 established new deadlines for all local exchange carriers ("LECs") to implement intraLATA dialing parity. Specifically, all local exchange carriers are required to submit dialing parity plans to the respective state commissions by April 22, 1999. State commissions were given until June 22, 1999, to review and approve those plans. Approved intraLATA toll dialing parity plans were directed to be implemented within thirty (30) days of approval.

Toll dialing parity, also referred to as "1 plus equal access" or carrier presubscription, allows a customer to pre-select a carrier for intrastate, intraLATA toll calls and then access his chosen carrier simply by dialing 1 plus the telephone number. Without dialing parity, a customer wishing to use a specific toll carrier may be required to dial a series of numbers before dialing the telephone number. Upon implementation of toll dialing parity, customers will be able to presubscribe to a carrier for both their interLATA and intraLATA toll calls. This means that originating customers will be able to dial toll calls without having to use any extra digits or access codes (other than the prefatory "1" or "0"). This is often referred to as "full 2-PIC" capability. In addition, originating customers will continue to be able to use "dial-around" 101-XXXX to route their specific calls to a carrier other than their presubscribed carrier if they so choose.

### **GEM STATE'S DIALING PARITY PLAN**

Gem State's exchanges are Grand View, Bruneau and Grasmere located in the southern Idaho LATA (*see* 47 CFR §51.213). Pursuant to 47 U.S.C. § 251(b)(3), Gem State submitted an

intraLATA toll dialing parity plan for Commission approval. Gem State proposed the following implementation schedule:

Notification to IXCs	April 16, 1999
Paperwork due from IXCs	May 5, 1999
Informational letter sent to customers	June 1, 1999
Second letter sent by separate mailer	June 10, 1999
IntraLATA Conversion date	July 13, 1999
Free PIC change grace period ends	November 13, 1999

**A. Customer Notification**

In its plan, Gem State proposes to contact all carriers currently offering interLATA toll service to customers in Gem State's exchanges and request the carriers indicate whether they intend to offer intraLATA service. The request was mailed out April 16, 1999, and responses are due by May 5, 1999. Any other carrier that requests to offer intraLATA service by June 1, 1999 will be added to the list of available intraLATA carriers.

Gem State proposes that on June 1, 1999, a notice will be sent to customers in a bill insert to inform them of the coming opportunity they will have to choose an intraLATA carrier. A proposed customer notice was included with the Application. The notice will list the available carrier choices and address what will happen for those customers who do not respond by making a carrier selection. A second, separate mailer will be sent out during the second week of June.

Those customers, who respond to the customer notifications before July 13, 1999, will have their intraLATA presubscription choice programmed into the switch on that cut-over date.

Gem State's implementation plan also proposes a 120-day "grace period" after the cut-over date wherein customers may change their intraLATA carrier choice **two** additional times free of charge. The grace period would end November 13, 1999. Thereafter, each intraLATA PIC change will result in a five dollar (\$5.00) PIC change fee.

**B. Customers Who Do Not Actively Choose An IntraLATA Toll Carrier.**

In Gem State's original plan, current customers who do not affirmatively choose an intraLATA carrier would have defaulted to their existing carrier -- U S WEST. However, Gem State was recently notified by U S WEST that it does not wish to be the default company or to carry Gem State toll. In light of this, Gem State, Staff and AT&T entered into a stipulation on June 1, 1999, agreeing that all existing Gem State local exchange customers, other than multi-party line customers,

who do not choose an intraLATA carrier will default to CenturyTel Long Distance, Inc. Multi-party line customers will default to U S WEST.

Gem State proposes that new customers who do not designate an intraLATA toll carrier will have to “dial around” using 101-XXXX carrier access codes until they choose their presubscribed carrier(s).

### **C. Cost Recovery**

Gem State proposes that incremental expenses relating to intraLATA toll dialing implementation (Equal Access Recovery Charges) be recovered through a surcharge imposed on the participating intraLATA IXC companies over a 48-month period.

Gem State also proposed to include an Unauthorized IPIC (intraLATA PIC) Change Charge in its tariff to be applied in the event that a disputed change is made in a customer’s intraLATA PIC assignment – slamming.

### **AT&T COMMENTS**

AT&T generally agreed with Gem State’s implementation schedule and 120-day “grace period” after the cut-over date wherein customers may change their intraLATA carrier choice **two** additional times free of charge. AT&T urged the Commission to order Gem State to send customers notice in a separate mailing, written on neutral letterhead and sent first-class mail. AT&T also requested that where a customer chooses to simultaneously change or select both an intraLATA and interLATA carrier, only one PIC charge should apply.

Finally, AT&T requested the Commission rule that Gem State’s Unauthorized IPIC (intraLATA PIC) Change Charge should not be included in Gem State’s intraLATA dialing parity plan.

### **STAFF RECOMMENDATION**

Staff recommended the final Order be made effective June 22, 1999. Staff reviewed Gem State’s proposed implementation schedule, interexchange carrier notification, and customer notification process and found that all were adequate and should be approved. In addition, Staff recommended the customer notice and the proposed July 13, 1999 cut-over date, be approved. Although Gem State’s proposal did not address it, Staff recommends that existing interLATA PIC “freezes” do not automatically transfer to the intraLATA PICs and are only extended to the intraLATA selection upon affirmative request from the customer. Staff recommended the

Commission approve Gem State's proposal for new customers who do not designate an intraLATA toll carrier.

Finally, Staff recommended the Commission generally approve Gem State's proposed method of recovery for dialing parity costs. Staff stated it cannot ascertain what the amounts will be until those costs are incurred and submitted by Gem State in a separate tariff filing. Staff also recommended that Gem State include any waived PIC change charges in its cost recovery.

### **SETTLEMENT AGREEMENT**

At the settlement conference, AT&T, Staff and Gem State agreed to settle their differences. After negotiations, each party made certain concessions and agreed that Gem State's dialing parity plan, including the implementation schedule, should be approved as filed with the following specific changes to the proposed plan:

1. Gem State's tariff will not include an Unauthorized IPIC Change Charge.
2. Gem State will charge one five dollar (\$5.00) PIC change fee if a customer selects both an intraLATA and interLATA toll carrier at the same time.
3. Gem State will process all PIC change requests within five (5) business days.
4. Waived PIC charges will be billed to the participating carrier as a one time bulk bill and not recovered from the end user.
5. Gem State's customer notice will be written on neutral letterhead with Gem State's logo on the envelope.

Tr. pp. 23-27.

In addition, the parties agreed to enter into a stipulation concerning how existing customers who did not choose an intraLATA carrier would be treated. Tr. pp. 26-27. A stipulation was entered into the record on June 2, 1999. In that stipulation, Gem State, Staff and AT&T agreed that all existing Gem State local exchange customers, other than multi-party line customers, who do not choose an intraLATA carrier will default to CenturyTel Long Distance, Inc. Because of technical problems, multi-party line customers will default to U S WEST Communications, Inc.

## COMMISSION FINDINGS

The Commission finds that it has authority to approve and order modifications to Gem State's dialing parity plan pursuant to *Idaho Code* § 62-615(1),<sup>1</sup> 47 U.S.C. §§ 251(b)(3) and 251(f)(2) and 47 CFR §§ 51.205-51.217. The Commission finds that it approved those modifications offered by the parties at the settlement conference as described above. Tr. pp. 27-30. The Commission further finds that the stipulation filed by the parties, Gem State, Staff and AT&T on June 2, 1999, is in the public interest and hereby approves the stipulation.

The Commission further finds that the dialing parity plan, as modified by settlement and described above, is in the public interest, competitively neutral, and consistent with the Telecommunications Act of 1996.

## ORDER

IT IS HEREBY ORDERED that Gem State's dialing parity plan is approved as modified by settlement of the parties and as more fully described above.


THIS IS A FINAL ORDER effective June 22, 1999. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. CGS-T-99-1 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. CGS-T-99-1. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration in response to issues raised in the petition for reconsideration. See section 61-626, Idaho Code.

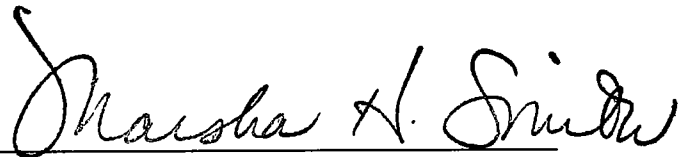
---

<sup>1</sup> *Idaho Code* § 62-615 Authority to implement the telecommunications act -- Suspension of obligations of rural carriers -- Promulgation of rules or procedures.

(1) The commission shall have full power and authority to implement the federal telecommunications act of 1996, including, but not limited to, the power to establish unbundled network element charges in accordance with the act.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this ~~28~~ day of  
June 1999.

  
DENNIS S. HANSEN, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
PAUL KJELLANDER, COMMISSIONER

ATTEST:

  
Myrna J. Walters  
Commission Secretary

O:cgst991\_cc2.doc