

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: WELDON STUTZMAN

DATE: FEBRUARY 23, 2007

SUBJECT: CUSTER TELEPHONE COOPERATIVE, INC.'S PETITION FOR AMENDMENT OF ITS CERTIFICATED SERVICE AREA BOUNDARY, CASE NO. CUS-T-07-01;
CUSTER TELEPHONE COOPERATIVE, INC. AND MIDVALE TELEPHONE EXCHANGE, INC.'S JOINT PETITION FOR AMENDMENT OF THEIR RESPECTIVE CERTIFICATED SERVICE AREA BOUNDARIES, CASE NO. CUS-T-07-02

On February 14, 2007, Custer Telephone Cooperative, Inc. filed a Petition for Amendment of Certificated Service Area Boundary, asking the Commission to amend Custer's Certificate of Public Convenience and Necessity to include three areas identified as Yankee Fork, Morgan Creek, and Slate Creek areas. Custer is a mutual, non-profit telephone company over which the Commission has very little regulatory authority. Custer's Petition states that the Commission issued a Certificate to Custer pursuant to *Idaho Code* § 62-615, which authorized the Commission to issue a Certificate to mutual telephone corporations that requested them. That authority was removed, however, when that Section 62-615 was repealed by the Legislature in 1997 and replaced with a new Section 62-615.

The Commission does have authority to designate a geographic service area for eligible telecommunications carriers, including mutual telephone companies, pursuant to *Idaho Code* § 62-610E. "Service area" is defined at *Idaho Code* § 62-610B(3) as "a geographic area designated by the commission for the purpose of determining universal service obligations of eligible telecommunications carriers." For rural telephone companies, "service area" means the company's 'study areas' as established by the federal communications commission and the

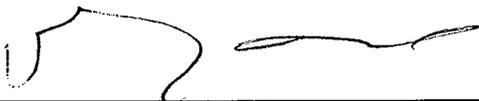
public utilities commission.” Although Custer’s Petition does not reference *Idaho Code* § 62-610B or 62-610E, Staff believes the Commission is authorized to consider Custer’s Petition pursuant to those sections. Custer asked that its Petition be processed by Modified Procedure.

On February 15, 2007, Custer and Midvale Telephone Exchange, Inc. filed a Joint Petition for Amendment of Certificated Service Area Boundaries. Midvale is an incumbent telephone provider regulated by the Commission pursuant to Title 61, Idaho Code. The Joint Petition states that the Companies’ certificated service areas are contiguous, and Custer and Midvale participated in construction of a fiber optic ring to provide broadband service in their certificated areas. As part of that project, the Companies agreed to a meet-point that was within Midvale’s certificated service area. The parties agreed to jointly seek amendment of their respective boundaries to adjust Custer’s certificated area to encompass its facilities up to the agreed upon meet-point. The Companies requested that their Joint Petition be processed by Modified Procedure.

Staff recommends that the Commission issue a Notice of Petition and Notice of Modified Procedure in each case to process the two Petitions.

COMMISSION DECISION

Should the Commission issue a Notice of Petition and Notice of Modified Procedure in Case No. CUS-T-07-01 and Case No. CUS-T-07-02?



Weldon B. Stutzman

bls/M:CUS-T-07-01_CUS-T-07-02_ws