

## DECISION MEMORANDUM

**TO:** COMMISSIONER KJELLANDER  
COMMISSIONER SMITH  
COMMISSIONER HANSEN  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** JOHN HAMMOND

**DATE:** JUNE 17, 2003

**SUBJECT:** IN THE MATTER OF IAT COMMUNICATIONS, INC. DBA NTCH-IDAHO, INC. OR CLEAR TALK FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER, CASE NO. GNR-T-03-8 AND IN THE MATTER OF THE APPLICATION OF NPCR, INC. DBA NEXTEL PARTNERS SEEKING DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER, CASE NO. GNR-T-03-16.

On February 3 and April 28, 2003 respectively, Clear Talk and Nextel Partners filed Applications requesting that the Commission designate them as “Eligible Telecommunications Carriers” (“ETC”). On May 27, 2003, the Commission issued Order No. 29240 that directed the joint processing of these Applications. Order No. 29261 at 1. The Commission also ordered the Applications be processed by Modified Procedure under the Commission’s Rules of Procedure and set June 24, 2003 as the deadline for interested persons and parties to file written comments on the Companies’ Applications. *Id.* at 5-6. In addition, the Commission required that any party protesting the use of Modified Procedure file a written protest “stating why Modified Procedure should not be used” along with a request for an evidentiary hearing. *Id.* at 5.

On June 10, 2003, the Idaho Telephone Association (“ITA”) filed its Protest opposing the use of Modified Procedure to process these Applications and requesting that the Commission schedule this joint proceeding for a full evidentiary hearing. Nextel Partners filed a response on June 16. On June 17, 2003, Citizens Telecommunications Company of Idaho, Potlatch Telephone Company, CenturyTel of Idaho and CenturyTel of the Gem State filed a combined request for a stay of this proceeding pursuant to Commission Rules of Procedure 203 and 324.<sup>1</sup> These Companies did not request oral argument on its request. They request a stay

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<sup>1</sup> Citizens Telecommunications Company of Idaho is the only Company in this group that has been granted intervention into this proceeding. *See* Order No. 29248.

until such time as the FCC has issued its ruling in Docket No. 96-45. In this Docket the FCC requested the Federal-State Joint Board on Universal Service to “review certain of the Commission’s rules relating to the high-cost universal support mechanisms to ensure that the dual goals of preserving universal service and fostering competition continue to be fulfilled.”<sup>2</sup> These Companies represent that a decision is anticipated in late 2003 or early 2004. These Companies also stated that should the Commission not wish to stay these proceedings they support ITA’s request for an evidentiary hearing.

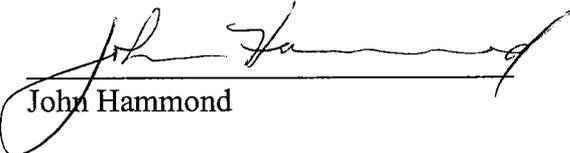
#### STAFF RECOMMENDATION

The Citizens’ groups’ request for stay was filed on June 17, 2003. Pursuant to Commission Rule of Procedure 256 interested persons and parties have seven days to join the motion or file their own for similar relief. IDAPA 31.01.01.256.04. In addition, interested persons and parties have 14 days from the filing of the last joinder or motion to respond. *Id.* Staff believes that the parties in this case should have the opportunity to respond to this request. Accordingly, Staff recommends that the Commission suspend the written comment deadline established by Order No. 29240 so that they may focus on this issue. Staff also suggests that the Commission also allow parties time to further respond to ITA’s request for an evidentiary hearing. Staff recommends that the Commission shorten the response time for parties to weigh in on these matters to June 26, 2003. After all responses are filed Staff will submit a Decision Memorandum placing the stay request, ITA’s request for an evidentiary hearing and any other procedural matters on the Commission’s next available Decision Meeting Agenda for resolution based on the written submissions.

#### COMMISSION DECISION

Does the Commission wish to suspend the written comment deadline for this joint proceeding?

Does the Commission wish to require interested persons and parties to file responses to the Request for a Stay of these proceedings by June 26, 2003?

  
John Hammond

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<sup>2</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order FCC 02-307 (rel. Nov. 8, 2002) (*Referral Order*).