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IDAHO PUBLIC  
UTILITIES COMMISSION

Attorneys for Idaho Telephone Association  
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**BEFORE THE IDAHO PUBLIC SERVICE COMMISSION**

IN THE MATTER OF THE PETITION OF IAT  
COMMUNICATIONS, INC., d.b.a. NTCH-  
IDAHO, INC. OR CLEAR TALK FOR  
DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER

CASE NO.: GNR-T-03-8

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

REPLY COMMENTS OF IDAHO  
TELEPHONE ASSOCIATION

On behalf of its member companies, the Idaho Telephone Association ("ITA") files the following Reply Comments in accordance with Order No. 29273 in the above entitled case:

1. Response to Clear Talk and Nextel Responses to ITA Protest. In its original Protest of the above-entitled Applications, the ITA pointed out that the Applicants statements that they currently "meet" all of the requirements for ETC designation are false because the Applicants do not serve the entirety of most of the rural companies' study areas, as required by 47 U.S.C. § 214(e).<sup>1</sup> Both Nextel and Clear Talk object to this characterization on the grounds

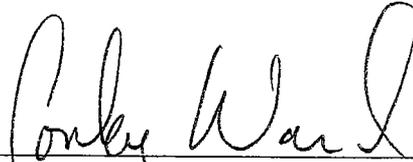
<sup>1</sup> Nextel's Application states, "Nextel Partners meets all of the requirements for designation as an ETC in each of these Designated Areas." Nextel Application at 2 (emphasis added). Clear Talk's Application states, "Clear Talk meets all of the Commission's requirements for E.T.C. designation to serve southeast Idaho customers." Clear Talk Application at 3 (emphasis added).

that the FCC and a number of state commissions have held that the lack of ubiquitous service throughout an incumbent's service territory does not preclude an ETC designation.

The ITA is well aware of the FCC's ruling on this issue, but it stands by its original statements that Applicants' claims are not true. The fact is that the Applicants do not currently meet the statutory ETC test as they claim because they do not currently provide service throughout the rural companies' study areas. Ubiquitous service throughout the incumbent rural telephone companies' study area is a statutory requirement that cannot be modified or ignored by the FCC or state commissions. This statutory provision was enacted for the rural telephone companies' protection and, at the very least, it requires a showing that the Applicants are fit, willing, and able to meet this requirement before ETC status is granted. Whether the Applicants can meet this test remains to be seen, but at the moment it is clear that the Applicants have not, as a factual matter, complied with the statutory requirements for ETC designation.

2. Motion for a Stay. The ITA supports the Motion of Citizens Telecommunications Company of Idaho, Potlatch Telephone Company, Century/Tel of Idaho, and CenturyTel of the Gem State for a stay of these proceedings until the FCC issues its order in Docket No. 96-54. That docket amounts to a complete reevaluation of both the substantive and procedural requirements for participation in the Federal Universal Service Fund. At least one FCC Commissioner has already raised the issue of whether applicants such as Nextel and Clear Talk should receive ETC designations in rural telephone company study areas. *See* ITA Protest at 7. Under these circumstances, it is in the public interest for the Commission to stay these proceedings pending the FCC's decision. Doing so will spare both the Commission and the parties from a possible waste of time and resources in litigating applications that may ultimately prove to be barred as a matter of law.

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of June, 2003.

A handwritten signature in cursive script, appearing to read "Conley Ward", written over a horizontal line.

Conley Ward  
GIVENS PURSLEY LLP  
Attorneys for Idaho Telephone Association

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the \_\_\_\_ day of June 2003, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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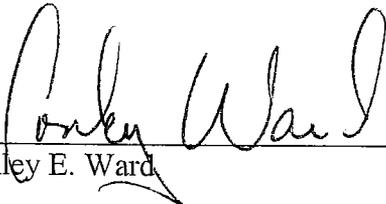
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