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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE
IDAHO PUBLIC UTILITIES 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) CASE NO. Docket No. GNR-T-03-08
Telecommunications Carrier.)

In the Matter of the Application of NPCR, INC.)
d/b/a NEXTEL PARTNERS)
Seeking Designation as an Eligible) CASE NO. Docket No. GNR-T-03-16
Telecommunications Carrier that may receive)
Federal Universal Service Support.)
**CLEAR TALK'S MEMORANDUM
IN OPPOSITION TO ITA'S
MOTION TO COMPEL**

I.
INTRODUCTION

IAT Communications, Inc., d.b.a. NTCH-Idaho, Inc. ("Clear Talk") respectfully submits this Memorandum in response to the Motion of the Idaho Telephone Association ("ITA"). For the reasons set forth below, Clear Talk opposes ITA's Motion to Compel.

II. ARGUMENT

In its Motion to Compel, ITA seeks to compel Clear Talk's response to Request Nos. 4 and 14. Clear Talk will address each request separately.

A. Request No 4

ITA's Request and Clear Talk's Response are as follows:

REQUEST NO. 4:

Please provide copies of the documents relating to Clear Talk's decision to file for ETC status in the state of Idaho, including but not limited to memorandums, board of director minutes, management presentations, correspondence and financial analysis and forecasts.

OBJECTION:

Clear Talk objects to this request as improper because it seeks information that is privileged, including attorney-client communications and attorney work product. Clear Talk objects to this request on the grounds that it seeks information which is not relevant and/or is not reasonably calculated to lead to the discovery of admissible evidence, and is intended to vex, annoy or harass the responding party.

(Emphasis supplied.)

Clear Talk stands by its original Objection to this Discovery Request. Furthermore, ITA bears the burden of persuading the Commission that: (1) the requested information is reasonably calculated to lead to the discovery of admissible evidence; and (2) that its need for the requested information outweighs Clear Talk's privilege. ITA has provided no legal basis or argument in support of its Motion, therefore ITA has failed to carry its burden and its Motion must fail on its face.

Because Clear Talk only seeks access to the federal universal service program, the federal standards for eligibility control and this Commission has wisely recognized that fact.¹ As Clear Talk noted in its Response to ITA's Protest:

¹ IPUC Order No. 29261, pp. 3-4.

Any attempt by ITA or any other Intervenor to turn this proceeding into a fishing expedition to dredge up irrelevant, extraneous factual matters based on a mischaracterization of the relevant issues must be soundly rebuffed by the Commission.

Clear Talk Response, at 3.

ITA's Request No. 4 is just the sort of fishing expedition that Clear Talk predicted that ITA would attempt to get the Commission to sponsor. The Commission must decline the invitation.

B. Request No. 14

Clear Talk was in the process of gathering and reviewing the requested information at the time ITA's Motion was filed. On October 6, 2003, Clear Talk informed ITA's counsel, via electronic mail, that the information was forthcoming. Clear Talk provided the requested information to ITA via Priority U.S. Mail on October 10, 2003. Therefore this portion of ITA's Motion to Compel is moot.

III.

ORAL ARGUMENT NOT REQUESTED

ITA did not request oral argument on its Motion. Because it failed to so request, as required by IPUCRP 56.03, the Commission may decide ITA's Motion based on the record before it: the Motion and this Memorandum in Opposition.

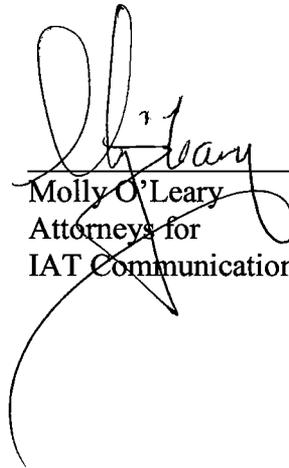
IV.

CONCLUSION

For the foregoing reasons, ITA's Motion to Compel must be denied.

RESPECTFULLY SUBMITTED, this 3rd day of October, 2003.

RICHARDSON & O'LEARY, PLLC



Molly O'Leary
Attorneys for
IAT Communications, Inc. dba Clear Talk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of October, 2003, I caused a true and correct copy of the foregoing **CLEAR TALK'S MEMORANDUM IN OPPOSITION TO ITA'S MOTION TO COMPEL** to be served by the method indicated below, and addressed to the following:

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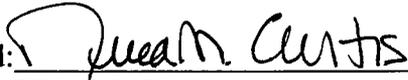
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Signed: 
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