

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF AN INVESTIGATION)
OF AN APPROPRIATE CERTIFICATION) **CASE NO. GNR-T-11-01**
PROCESS FOR TELECOMMUNICATIONS)
COMPANIES THAT DO NOT PROVIDE) **NOTICE OF INVESTIGATION**
BASIC LOCAL EXCHANGE SERVICE)
) **NOTICE OF**
) **MODIFIED PROCEDURE**
) **ORDER NO. 32194**

YOU ARE HEREBY NOTIFIED that on August 27, 2010, the Commission issued Order No. 32059 in Case No. TIM-T-08-01. The Order denied a request by Time Warner Cable Information Services (Idaho), LLC for a Certificate of Public Convenience and Necessity (CPCN) authorizing it to provide telecommunications service in Idaho because the Company was not planning to offer “basic local exchange service” as defined in Title 61, Idaho Code. The Commission stated in the Order that it no longer issues CPCNs to telephone corporations under *Idaho Code* § 61-625, and instead it “registers” new competitive local exchange carriers (CLECs) by issuing a “Certificate” under Commission Rule 114, IDAPA 31.01.01.114. Order No. 32059, p. 7. The Commission stated it used the certification process to register and review applicants to provide telecommunications services pursuant to Rule 114. *Id.*

YOU ARE FURTHER NOTIFIED that evidence in Case No. TIM-T-08-01 indicated the Commission may have issued CPCNs under Title 62, Idaho Code, to other wholesale telecommunications providers. The Commission stated in its Order that, inasmuch as it may have previously issued CPCNs to companies who do not offer basic local exchange services, “the Commission is committed to appropriately addressing the matter through an investigatory process to verify that recipients of CPCNs are actually providing basic local exchange service to customers in Idaho.” Order No. 32059, p. 11. The Commission further stated that it “is taking appropriate steps to verify that Title 62 Certificates are issued to carriers providing basic local exchange service,” and that the Commission “intends to investigate all holders of Title 62 CPCNs to ensure they are providing basic local service.” Order No. 32059, p. 12.

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YOU ARE FURTHER NOTIFIED that in response to the Commission's directive in Order No. 32059, the Commission Staff requested information of all Idaho CLECs regarding the current count of access lines provided by each company to residential customers in Idaho and to small business customers. Based on the information provided, and referencing the Commission's instructions in Order No. 32059, Staff notified CLECs that currently hold a CPCN but do not provide basic local exchange service that the Commission might consider rescinding the company's CPCN. Responses to Staff's request were sent to the Commission Secretary.

YOU ARE FURTHER NOTIFIED that in response to Staff's correspondence, some companies objected to possible relinquishment of their CPCN. Several companies provided specific information regarding their need for a CPCN from the Commission. As part of its response, one company suggested that "rather than revoking a company's certificate, the Commission consider offering a separate certification for those carriers that do not provide 'retail basic local exchange' under state law but provide or offer to provide other local exchange and exchange access service in Idaho under the federal act." The company explained that

A gap exists today between the application of Idaho law and the implementing rules relating to rights of CLECs under Sections 251 and 252 of the Telecommunications Act of 1996. As the Commission acknowledges, the definition of a 'local exchange carrier' entitled to Section 251 and 252 rights is broader than Idaho state law's definition of the providers of 'basic local exchange service.' Under the Act, even those providers seeking to provide only wholesale telecommunications services are entitled to interconnection and other rights of local exchange carriers. In Idaho, however, only 'basic local exchange carriers' obtain a 'Certificate' from the Commission. Processes relating to the federal Act such as those noted above (interconnection, numbers, company codes) require some sort of 'certification' from the Idaho Commission authorizing the CLECs to provide local telecommunications services here. Without it, a CLEC is prevented from entering the Idaho local exchange market.

The company recommended the Commission provide a sort of "written certification" or "order in lieu of certificate," rather than a CPCN, to solve the problem of CLECs that need Commission approval but do not provide basic local exchange service.

YOU ARE FURTHER NOTIFIED that in light of the responses received from Staff's inquiry into access line use by CLECs, the Commission has determined to open a docket to investigate whether some sort of certification process is appropriate for Title 62 telecommunications providers that do not provide basic local exchange service. The

Commission has determined to solicit written comments addressing the need or purpose of a certification for telecommunication companies that provide services other than basic local exchange service. Written comments should address the following questions:

1. Is a certification by the Commission necessary for companies providing telecommunications services but not basic local exchange service?
2. If some sort of Commission certification is needed, what form or designation might it take?
3. What legal authority does the Commission have to issue certification that is not a Certificate of Public Convenience and Necessity?
4. What can the Commission do to ensure numbers are used efficiently by CLECs and other telecommunications providers?

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201-204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this investigation may file a written comment in support or in opposition with the Commission within 30 days from the service date of this Notice. The comment must contain a statement of reasons supporting the comment.

YOU ARE FURTHER NOTIFIED that the deadline to file reply comments is 14 days after the initial comment period.

YOU ARE FURTHER NOTIFIED that persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this investigation may be mailed to the Commission at the address reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, Idaho 83720-0074

Street Address for Express Mail:

472 W. Washington Street
Boise, ID 83702-5918

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.idaho.gov. Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq.

ORDER

IT IS HEREBY ORDERED that the investigation of an appropriate certification process for competitive local exchange carriers be processed by Modified Procedure, IDAPA 31.01.01.201-.204. Persons interested in submitting written comments in this matter must do so within 30 days from the service date of this Notice, and may file reply comments within 14 days after the initial comment period.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 25th
day of February 2011.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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