(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE INVESTIGATION INTO THE REVOCATION OF AN EXEMPTION FROM THE COMMISSION’S OPERATOR SERVICES AND PAY TELEPHONE RULES, (IDAPA 31.51.01.102) GRANTED MOUNTAIN PHONE COMPANY WEST, INC. | )  )  )  )  )  )  ) | CASE NO. GNR-T-93-21 |

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| IN THE MATTER OF THE PETITION BY MOUNTAIN PHONE COMPANY WEST, INC.  TO STAY IDAPA 31.51.01.213 AND RECON­NEC­TION OF PAY TELEPHONES AT THE MARSING JOB CORPS. | )  )  )  )  )  ) | CASE NO. GNR-T-95-1  ORDER NO.  27197 |

On October 24, 1997, the Commission Staff and Mountain Phone Company West (MPC West) filed a Settlement Stipulation and Motion to Dismiss.  The parties requested that the Commission dismiss its investigation of MPC West’s pay telephone operations in Case No. GNR-T-93-21.  The parties assert that if the Commission’s investigation is dismissed, then MPC West agrees to withdraw its Petition in Case No. GNR-T-95-1.  Having reviewed the Settlement Stipulation and the Motion to Dismiss, the Commission finds there is good cause to dismiss the investigation.  Consequently, we close Case No. GNR-T-93-21 and allow MPC West to withdraw its Petition in Case No. GNR-T-95-1.

PROCEDURAL HISTORY

A.  CASE NO. GNR-T-93-21

In October 1993, the Commission issued an Order to Show Cause directing that MPC West provide a written response why its “0- dialing” exemption should not be revoked. Pay Telephone Rule 102 requires all pay telephones connected to an operator service provider (OSP) provide direct access to a local exchange operator by dialing “0” unless the Commission grants an exemption, IDAPA 31.51.01.102.  Rule 102 allows the Commission to grant an exemption from the “0-” dialing requirement if the OSP can demonstrate that it can direct emergency service agencies to the location of the payphone.  MPC West had previously been granted such an exemption.  The Order outlined a number of instances where the Staff alleged that “0-” calls were routed to MPC West’s OSP (International Pacific), but International Pacific was unable to identify the locations of several payphones.

In December 1993, MPC West responded to the Order explaining that the automatic number identification (ANI) which transfers the payphone’s telephone number and location to the OSP was either working correctly or was malfunctioning but had subsequently been corrected.  The Company noted that it had implemented a more thorough program of testing its pay telephones to prevent future problems.  Staff filed a response disputing the ANI transfer failure.  The Company, in turn, disputed the Staff’s evaluation and testing procedures.  Prolonged settlement negotiations between the Company and the Staff followed.

B.  CASE NO. GNR-T-95-1

On May 15, 1995, MPC West filed a Petition for “immediate stay of IDAPA 31.51.01.213, and reconnection of pay telephones at the Marsing Job Corps.”  This Petition was prompted by the Staff initiating proceedings to disconnect MPC West’s pay telephones at the Marsing Job Corps site for the alleged failure to return coins.  The Staff maintained that this  violation in conjunction with other violations constituted a “pattern of non-compliance.”  A pattern of non-compliance is two separate major violations of the Commission’s Pay Telephone Rules within a three-month period.  IDAPA 31.51.01.213.02.  Pay Telephone Rule 213 permits the Staff to order disconnection of a privately-owned pay telephone if the payphone exhibits a pattern of not complying with the Commission’s Pay Telephone Rules.  IDAPA 31.51.01.213.

In its Petition, MPC West asserted that disconnection of a payphone without prior notification to the owner is arbitrary and unreasonable.  Requiring owners of privately-owned payphones to pay reconnection charges to the local exchange carrier is a violation of due process and imposes a penalty that far out weighs the alleged violations.  Petition at 3, 6-7.  Proceedings on MPC West’s Petition were held in abeyance at the request of the Company.

STIPULATION

In the Settlement Stipulation, the parties indicate that they have resolved most if not all of the underlying issues.  They note that MPC West has worked with the Staff to insure compliance with the Commission’s Pay Telephone Rules and prevent (to the extent possible) pay telephone malfunctions.  Stipulation at 3.  Consequently, they urge the Commission to dismiss its investigation in Case No. GNR-T-93-21.  If the Commission dismisses its investigation, then MPC West agrees to withdraw its Petition in Case No. GNR-T-95-1.

DISCUSSION

In Case No. GNR-T-93-21, the Staff urged us to initiate an investigation into MPC West’s payphone practices.  The Staff has now entered into a settlement stipulation with the Company urging us to dismiss the investigation.  The parties represent that the issues in dispute have been resolved and that MPC West has made efforts to insure compliance with the Commission’s Pay Telephone Rules.  Based upon the representations contained in the Settlement Stipulation and the fact that the only parties to this case are MPC West and the Staff, the Commission finds that it is reasonable to adopt the Settlement Stipulation.  IDAPA 31.01.01.274.  Consequently, we shall close Case No. GNR-T-93-21.  Given our dismissal of the investigation, we also find it is reasonable to allow MPC West to withdraw its Petition in Case No. GNR-T-95-1.  IDAPA 31.01.01.067.

O R D E R

IT IS HEREBY ORDERED that the Settlement Stipulation entered into by the Commission Staff and MPC West is adopted.  The Commission grants the parties’ Motion to Dismiss Case No. GNR-T-93-21.

IT IS FURTHER ORDERED that MPC West’s Petition in Case No. GNR-T-95-1 is withdrawn.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case Nos. GNR-T-93-21 and GNR-T-95-1  may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case Nos. GNR-T-93-21 and GNR-T-95-1 .  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of October 1997.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

October 29, 1997