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

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| IN THE MATTER OF PROCEDURAL REQUIRE­MENTS FOR APPROVAL OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR TELECOMMUNICA­TIONS PROVIDERS DESIRING TO PROVIDE LOCAL SERVICE IN IDAHO. | )  )  )  )  )  )  ) | CASE NO. GNR-T-96-4  NOTICE OF PROPOSED              ORDER  ORDER NO.  26547 |
|  | ) |  |

Since passage of the federal Telecommunications Act of 1996, the Commission has received numerous requests from potential telecommunications providers seeking a Certificate of Public Convenience and Necessity (Certificate) to provide local exchange service within Idaho.  The  Commission Staff has also received inquiries from companies seeking information on how to apply for Certificates to operate as a local telecommunications service provider.  Most, if not all, of the applications that have been filed since the enactment of the Act, do not give the necessary information for the Commission to determine if a Certificate should be issued according to Idaho law.

The Commission is vested with the authority to grant Certificates to the public utilities operating in Idaho. Idaho Code §§ 61-526 through -528 specifically require that a utility must obtain a Certificate of Public Convenience and Necessity before it may operate. The Commission reviews applications to determine if the applicant has the financial and technical ability and good faith to operate as a public utility.(footnote: 1)  Commission Rules 111 and 112 outlines the information to be included in an application for or in an amendment to a Certificate by telephone corporations seeking to provide basic local exchange service.  IDAPA 31.01.01.111 and 112.

Given the new federal Act, the Commission has determined that the filing requirements set out in Rule 111 and Rule 112 should be clarified so that applicants may submit the necessary information for issuance or modification of a Certificate to be a telecommunications provider.  Clarification of our certification process will facilitate access to the telecommunications markets in Idaho in an efficient and systematic fashion. Thus, the Commission has determined that the most expeditious manner to address our concern to clarify the requirements of Rule 111 and Rule 112 and to obtain comments from interested persons is to issue the attached Proposed Order.

NOTICE OF PROPOSED ORDER

 YOU ARE HEREBY NOTIFIED that pursuant to Commission Rule 312, IDAPA 31.01.01.312, the Commission is issuing the attached Proposed Order for comments.  Any person desiring to state a position on the Proposed Order may file written comments or protests with the Commission within twenty-one (21) days from the date of this Notice.  Persons desiring a hearing must specifically request a hearing in their written comments or protests.  Parties who take exception with the Proposed Order should provide the Commission with suggestions and specific language if changes are contemplated.

YOU ARE FURTHER NOTIFIED that the Commission also seeks specific comments on the performance bond requirement listed under Rule 111 of the Proposed Order. We ask for  specific comments on whether or not a performance bond is necessary to protect customer deposits or advance payments, or what viable alternative options are available.

YOU ARE FURTHER NOTIFIED that written comments or protests concerning this Proposed Order shall be mailed to the Commission at the address below:

COMMISSION SECRETARY

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

Street Address for Express Mail:

472 W. WASHINGTON ST.

BOISE, IDAHO  83702-5983

Comments and/or exceptions should contain the case caption and case number shown on the first page of this document.

YOU ARE FURTHER NOTIFIED that the Commission may adopt or revise the Proposed Order in response to the comments or protests and issue a final Order accordingly.  The Proposed Order is not an Order of the Commission unless it is later adopted by an Order.

O R D E R

IT IS HEREBY ORDERED that the attached Proposed Order be submitted for comment.  The Commission specifically asks for parties who support or find exception with any part of  the Proposed Order to provide the Commission with specific comments and suggestions to change the Order’s text.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this         day of  August  1996.

                                                                                RALPH NELSON, PRESIDENT

                                                                                MARSHA H. SMITH,  COMMISSIONER

                                                                                DENNIS S. HANSEN, COMMISSIONER

ATTEST:

MYRNA J. WALTERS

COMMISSION SECRETARY

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF PROCEDURAL REQUIREMENTS FOR APPROVAL OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR TELECOMMUNICA­TIONS PROVIDERS DESIRING TO PROVIDE LOCAL SERVICE IN IDAHO. | )  )  )  )  )  )  ) | CASE NO. GNR-T-96-4  PROPOSED PROCEDURAL                  ORDER |

On February 8, 1996, the Telecommunications Act of 1996 (the Act) became law.  One of the purposes of the Act is to foster competition in the local telecommunications market.  Since the enactment, the Commission has received several documents from potential telecommunications providers stating their intent to provide local telecommunication services in Idaho.  These documents range from a one sentence notice, to form letters citing rules and laws that do not exist in Idaho, to others addressing the applicant’s business affiliation, financial ability and managerial qualifications.  In addition, the Commission Staff has received numerous inquiries from companies seeking information concerning how to apply and operate as a local service provider.

These applicants request that the Commission issue a Certificate of Public Convenience and Necessity (Certificate) to provide local exchange services within the state of Idaho pursuant to  Idaho Code §§ 61-526 through -528 and IDAPA 31.01.01.111 (Rule 111).(footnote: 2)  Most, if not all, of the applications filed do not provide the necessary information for the Commission to determine if a Certificate should be issued.  In this procedural Order, the Commission sets out the necessary information to be included with an Application for a Certificate submitted by a new provider of local exchange service in Idaho and the requirements to amend a Certificate.   Those telecommunications companies intending to offeronly non basic local exchange services (e.g., MTS, WATS, dedicated service) need not apply for a certificate but must comply with the filing requirements of Idaho Code § 62-604.

For the convenience of the reader, the complete filing requirements for a new Certificate (Rule 111) and  for amending a Certificate (Rule 112) are attached as an Appendix to this Order.

             DISCUSSION

The Commission is vested with the authority to grant Certificates to the public utilities operating in Idaho.  Idaho Code §§ 61-526 through -528.  The Commission reviews applications to determine if the applicant has the necessary qualifications to obtain a Certificate.   Commission Rules 111 and 112 outline the data to be included in an application for a Certificate.  IDAPA 31.01.01.111 and 112.

We believe that the certification process is the appropriate mechanism for examining applications to become a local telecommunications provider in Idaho. However, given passage of the federal Telecommunications Act, the Commission desires to streamline the certification process for new local service providers in Idaho.  Rules 111 and 112 give the Commission discretion to determine what information is relevant and necessary to grant or amend a Certificate.  The Commission has determined that the filing requirements as currently set out in Rule 111 and Rule 112 should be clarified so that applicants for local telecommunications service supply the relevant and necessary information.  By clarifying the information that must be submitted in the application, we can make the certification process more efficient and facilitate the introduction of competition into the local exchange market.

A.  Requirements for New Certificatesfor Local

Telecommunications Providers, Rule 111

 New local telecommunications providers applying for a Certificate of Public Convenience and Necessity to provide basic local exchange service in Idaho must submit the following information:

Form of Business

1.Name, Address and Form of Business

a.If the applicant is the sole proprietor, (1) the name and business address of the applicant, and (2) the business name of the sole proprietorship.

b.If the applicant is a partnership, (1) a list of the names and business addresses of all the partners, and (2) the business name of the partnership.

c.If the applicant is a corporation, (1) a short statement of the character of public service in which it may engage, (2) the name of the state in which it is incorporated, (3) its principal business address and its principal business address within Idaho, (4) a certified copy of its articles of incorporation, (5) if not incorporated in Idaho, a certificate of good standing issued by the Secretary of State, and (6) name and address of registered agent for service in Idaho.

d.If a corporation, the names and addresses of the ten common stockholders of applicant owning the greatest number of shares of common stock and the number of such shares owned by each, as follows:

 Percentage of

Name   all Shares

andShares                      Issued and                 Percentage of

AddressOwned                     Outstanding              Voting Control

e.  Names and addresses of the officers and directors of applicant.

f.  Name and address of any corporation, association, or similar organization holding a 5% or greater ownership or a management interest in the applicant.  As to ownership, the amount and character of the interest must be indicated.  A copy of any management agreement must be attached.

g.  Names and addresses of subsidiaries owned or controlled by applicant.

The Commission desires to clarify in further detail the information required to be provided by corporations.  The Commission feels it is necessary to supply more detailed information on corporations doing business in Idaho.  Further, the requirement to identify the registered agent for service is required by Idaho Code § 30-1-12.  Including this latter information will serve as notice that corporations must have a registered agent as required by the Idaho Business Corporation Act.  We find the above requirements to be fair, just and reasonable.

Telecommunication Service

2.The date on which applicant proposes to begin construction or anticipates it will begin to provide service. A written description of customer classes and customer  service[s] that the applicant proposes to offer to the public.

Paragraph 02 of Rule 111 currently requires that the applicant state why the proposed utility service is in the public convenience and necessity.  Given the federal Act, we believe this requirement is no longer relevant for certification of local service providers.  The information addressing the construction of facilities and the proposed date to offer service is currently required by Rule 111.05. We find the above requirements to be fair, just and reasonable.

Service Territory

3.Proposed Service Territory.  A full description of the proposed location, route or routes of the utility service, including a description of the manner of construction (if any); and the names of all incumbent local exchange corporations with whom the proposed utility is likely to compete.  Written description of the intended manner of service, for example, resold services or facilities based.  A general description of the property owned or controlled by applicant.

Rule 111.03 currently requires a statement describing with whom the applicant is likely to compete.  Given the presence of many rural telephone companies (as defined in Section 251(f) and Section 3(a)(42) of the Telecommunications Act) in Idaho, we find that this information is still relevant.  A description of the property owned by the applicant clarifies the applicant’s proposed services and operation. We find the above requirements to be fair, just and reasonable.

Financial Information

4.Current detailed balance sheets, including a detailed income and profit and loss statements of applicant reflecting current and prior year balances for the twelve months ended as of the date of the balance sheet, or if not readily available, for the period since the close of the preceding calendar year.  If a balance sheet and income statement are not available, the applicant must submit financial data sufficient to establish it possesses adequate financial resources to provide the proposed services.

5.Latest annual report, if any.

We believe that the above requirements for financial information are a further clarification of the necessary information currently embodied in Rule 111.07. We find the above requirements to be fair, just and reasonable.

Maps

6.A map of reasonable size and detail showing where the applicant is proposing to provide service including exchanges (if different from existing exchanges), rural zones,  and local calling areas.

The requirement for a detailed map is contained in Rule 111.04.  The additional detail will assist the Commission in reviewing the applicant’s ability to provide service. We find the above requirement to be fair, just and reasonable.

Tariff Filings

7.Proposed initial tariff and price sheets setting forth rates, rules, terms, and regulations applicable to the contemplated service. Initial tariff and price list filings must be in electronic form as well as paper.  The format for the electronic form will be submitted on a 3.5 inch computer diskette in WordPerfect readable format or other format as prescribed by the Commission Secretary.

The requirement for cost of services is contained in Rule 111.06.  The electronic format is  a further clarification for ease of administration. We find the above requirements to be fair, just and reasonable.

Customer contacts

8.Contact information for the applicant.  This information must include the name, address, and telephone number for those persons responsible for tariff questions as well as customer contact.  A toll-free number must be provided for customer inquiries and complaints.

The Commission Rules on Customer Relations, IDAPA 31.41.01.201, require that utilities provide a toll-free number for customer inquiries.  We believe that incorporating this information with the application provides notice and assists the applicant in complying with additional Commission requirements to operate as a local service provider. We find the above requirements to be fair, just, reasonable and in the public interest.

Interconnection Agreements

9.Statements of whether the applicant has initiated interconnection negotiations and, if so, when and with whom.  Copies of any interconnection contracts which have been completed for the provision of telecommunications services.

Section 252 of the Telecommunications Act of 1996 requires that interconnection agreements reached by negotiation  or arbitration shall be submitted to the Commission for approval.  We believe that including this information with the application will assist the Commission in meeting its obligations pursuant to the Telecommunications Act. We find the above requirements to be fair, just and reasonable.

Compliance with Commission Rules

10.  A written statement that the applicant has reviewed all of the Commission’s rules and agrees to comply with them.

Idaho Code § 61-528 provides that the Commission may require such terms and conditions as are necessary and in the public interest when issuing Certificates.  Moreover, Idaho Code § 61-406 provides every public utility shall comply with Commission rules.  We believe that compliance with our Rules is a relevant and necessary element that should be included in the application for a Certificate. We find the above requirement to be fair, just, reasonable and in the public interest.

Performance Bond

11.  A performance bond by a company authorized to do business in Idaho to cover any advances or deposits, or a detailed description of the account to be maintained for customer deposits including the name of the depository and a copy of the deposit arrangement.

The purpose of a performance bond is to assure the good faith, as required in Idaho Code § 61-528, and financial ability of the applicant when it requires advances or deposits from its customers.  The Commission seeks comments whether the performance bond is the best way to protect customers from losing the deposits if the company is unable to meet its financial obligations.

B.  Requirements for Amendments to Certificates, Rule 112

Utilities seeking to amend their certificates to provide basic local exchange service must submit the following information:

Telecommunications Service

1.  The date on which applicant propose to begin construction or anticipates it will begin to provide service. Written description of classes of customers and customer service[s] that the applicant proposes to offer to the public.

Paragraph (a) of Rule 112, currently requires that the applicant state why the proposed construction on expansion is in the public convenience and necessity.  Given the federal Act, we believe this requirement is no longer relevant for certification of local service providers.  The information addressing the construction of facilities and the proposed date to offer service is currently required by Rule 112(b) and (d). We find the above requirements to be fair, just and reasonable.

Maps

2. A map of reasonable size and detail showing where the applicant is proposing to provide service including exchanges (if different from existing exchanges), rural zones,  and local calling areas. Written description of the proposed location of utility service including the manner of construction and the intended manner of service, for example, resold services or facilities based.

The requirement for detailed maps is contained in Rule 112(c).  The additional detail will assist the Commission in reviewing the applications. We find the above requirements to be fair, just and reasonable.

iii).  Tariff Filings

3.  Proposed tariff and price sheets setting forth rates, rules, terms, and regulations applicable to the amendment of a certificate. Tariff and price list filings must be in electronic form as well as paper.  The format for the electronic form will be submitted on a 3.5 inch computer diskette in WordPerfect readable format or other format as prescribed by the Commission Secretary.

The requirements for construction or expansions cost and the effects of those costs on the revenue requirements are contained in Rule 112(e).  The electronic format is a further clarification for ease of administration. We find the above requirements to be fair, just and reasonable.

ULTIMATE FINDINGS OF FACT

Rule 13 of the Commission’s Rules of Procedure allows liberal construction of the Commission Rules when it finds compliance with them is impractical, unnecessary or not in the public interest.  IDAPA 31.01.01.013.  We believe that the above requirements clarify the necessary and relevant information to obtain from local telecommunications providers when applying for or amending Certificates pursuant to Rules 111 and 112.  We find the above requirements to be fair, just, reasonable and in the public interest.

O R D E R

IT IS HEREBY ORDERED that all local telecommunications providers applications for Certificates or amendments to Certificates shall comply with the filing requirements as outlined in this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this         day of  August  1996.

                                                                                RALPH NELSON, PRESIDENT

                                                                                MARSHA H. SMITH,  COMMISSIONER

                                                                                DENNIS S. HANSEN, COMMISSIONER

ATTEST:

MYRNA J. WALTERS

COMMISSION SECRETARY

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APPENDIX

Requirements for New Certificatesfor Local

Telecommunications Providers, Rule 111

New local telecommunications providers applying for  a Certificate to provide basic local exchange service must submit the following information:

Form of Business

1.Name, Address and Form of Business

a.If the applicant is the sole proprietor, (1) the name and business address of the applicant, and (2) the business name of the sole proprietorship.

b.If the applicant is a partnership, (1) a list of the names and business addresses of all the partners, and (2) the business name of the partnership.

c.If the applicant is a corporation, (1) a short statement of the character of public service in which it may engage, (2) the name of the state in which it is incorporated, (3) its principal business address and its principal business address within Idaho, (4) a certified copy of its articles of incorporation, (5) if not incorporated in Idaho, a certificate of good standing issued by the Secretary of State, and (6) name and address of registered agent for service in Idaho.

d.If a corporation, the names and addresses of the ten common stockholders of applicant owning the greatest number of shares of common stock and the number of such shares owned by each, as follows:

Percentage of

Name        all Shares

 and      Shares                                   Issued and                 Percentage of

Address      Owned                                 Outstanding              Voting Control

e.  Names and addresses of the officers and directors of applicant.

f.  Name and address of any corporation, association, or similar organization holding a 5% or greater ownership or a management interest in the applicant.  As to ownership, the amount and character of the interest must be indicated.  A copy of any management agreement must be attached.

g.  Names and addresses of subsidiaries owned or controlled by applicant.

Telecommunication Service

2.The date on which applicant proposes to begin construction or anticipates it will begin to provide service. A written description of customer classes and customer  service[s] that the applicant proposes to offer to the public.

Service Territory

3.Proposed Service Territory.  A full description of the proposed location, route or routes of the utility service, including a description of the manner of construction (if any); and the names of all incumbent local exchange corporations with whom the proposed utility is likely to compete.  Written description of the intended manner of service, for example, resold services or facilities based.  A general description of the property owned or controlled by applicant.

Financial Information

4.Current detailed balance sheets, including a detailed income and profit and loss statements of applicant reflecting current and prior year balances for the twelve months ended as of the date of the balance sheet, or if not readily available, for the period since the close of the preceding calendar year.  If a balance sheet and income statement are not available, the applicant must submit financial data sufficient to establish it possesses adequate financial resources to provide the proposed services.

5.Latest annual report, if any.

Maps

6.A map of reasonable size and detail showing where the applicant is proposing to provide service including exchanges (if different from existing exchanges), rural zones,  and local calling areas.

Tariff Filings

7.Proposed initial tariff and price sheets setting forth rates, rules, terms, and regulations applicable to the contemplated service. Initial tariff and price list filings must be in electronic form as well as paper.  The format for the electronic form will be submitted on a 3.5 inch computer diskette in WordPerfect readable format or other format as prescribed by the Commission Secretary.

Customer contacts

8.Contact information for the applicant.  This information must include the name, address, and telephone number for those persons responsible for tariff questions as well as customer contact.  A toll-free number must be provided for customer inquiries and complaints.

Interconnection Agreements

9.Statements of whether the applicant has initiated interconnection negotiations and, if so, when and with whom.  Copies of any interconnection contracts which have been completed for the provision of telecommunications services.

Compliance with Commission Rules

10.A written statement that the applicant has reviewed all of the Commission’s rules and agrees to comply with them.

Performance Bond

11.A performance bond by a company authorized to do business in Idaho to cover any advances or deposits, or a detailed description of the account to be maintained for customer deposits including the name of the depository and a copy of the deposit arrangement.

B.  Requirements for Amendments to Certificates, Rule 112

Utilities seeking to amend their Certificates to provide basic local exchange service must submit the following information:

Telecommunications Service

1.The date on which applicant propose to begin construction or anticipates it will begin to provide service. Written description of classes of customers and customer service[s] that the applicant proposes to offer to the public.

Maps

2.A map of reasonable size and detail showing where the applicant is proposing to provide service including exchanges (if different from existing exchanges), rural zones,  and local calling areas. Written description of the proposed location of utility service including the manner of construction and the intended manner of service, for example, resold services or facilities based.

Tariff Filings

3.Proposed tariff and price sheets setting forth rates, rules, terms, and regulations applicable to the amendment of a certificate. Tariff and price list filings must be in electronic form as well as paper.  The format for the electronic form will be submitted on a 3.5 inch computer diskette in WordPerfect readable format or other format as prescribed by the Commission Secretary.

**FOOTNOTES**

1:

Idaho Code § 62-604 provides that any telephone corporation that does not provide basic local exchange service and did not have a Certificate of Public Convenience and Necessity on or after July 1, 1988, is exempt from Title 61 of the Idaho Code, and subject to Title 62 of the Idaho Code.

2:

Telephone corporations providing basic local exchange service to residential and business customers with five or fewer lines are subject to the Commission’s Title 61 jurisdiction.The Commission’s traditional regulatory authority is found in Title 61 of the Idaho Code.  The Idaho Telecommunications Act of 1988 added a new chapter to Title 62 of the Code and created a modified form of regulation for telephone companies providing other than basic local exchange services in Idaho.

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

August 14, 1996