DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

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DAVID SCOTT

WORKING FILE

FROM:WAYNE HART

DATE:MARCH 13, 1997

RE:APPLICATION OF MAX-TEL COMMUNICATIONS FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO OFFER COMPETITIVE LOCAL EXCHANGE SERVICE; APPROVAL OF MAXTEL’S TARIFF;APPROVAL OF INTERCONNECTION AGREEMENT BETWEEN U S WEST & MAXTEL

On February 1, 1997, Max-Tel Communications, Inc. (Max-Tel), a Texas Corporation, submitted an application seeking authority to operate as a reseller of local telecommunications services within the service areas of U S WEST and GTE in Idaho.  The application included a copy of a  price list of the residential service the Company proposed to sell, and a copy of an interconnection agreement with U S WEST.  The Company indicated it is negotiating an interconnection agreement with GTE.

Staff has reviewed the information provided by Max-Tel with its application, as well as that provided in response to three subsequent Staff requests, and has determined that Max-Tel has provided all of the information that was identified by the Commission in Case No. GNR-T-96-4, which examined the procedural requirements for approval of competitive local exchange providers, and specified by the Commission in Order No. 26665.  MaxTel has requested an effective date for its tariff of April 15, 1997.

DISCUSSION

Max-Tel seeks authority to operate as a reseller of basic local exchange service in Idaho.  The Company would provide service on a monthly “pre-paid” basis.  Staff understands that the Company’s target market would be those consumers who presently do not have service, presumably due to unpaid bills with the existing local exchange carrier.

Idaho Code §61-528 states “[t]he Commission shall have power, after hearing involving the financial ability and good faith of the applicant and necessity of additional service in the community to issue said certificate as prayed for, or to refuse to issue the same...”  Rule 111(07) of the Commission’s Rules of Procedure, IDAPA 31.01.01, states that an application for a Certificate of Convenience and Necessity shall include “a financial statement of the applicant.”  The financial statement submitted by Max-Tel consists of the unverified financial statement of “Craig Bolin Trucking,” a separate business owned by one of the principals in Max-tel, showing a net worth of $271,000, and a copy of a letter of credit from the Texas National Bank to Max-Tel for $20,000.

Staff expressed concern about the financial ability of Max-Tel to provide the services identified in its application to a Company representative in a telephone conversation, and the Company representative indicated that since all services were paid for in advance, and all services were provided on a reseller basis, the Company did not anticipate any problems in this regard.

STAFF RECOMMENDATION

Although Staff remains concerned about the financial ability of this firm, the financial requirements of a reseller of prepaid services are largely unknown and, at this juncture, Staff does not believe there is sufficient justification to deny the application.  Staff recommends that the Commission process this matter under modified procedure.  If necessary, an Order could be issued suspending the proposed April 15 effective date.

COMMISSION DECISION

Should a notice of Modified Procedure be issued, soliciting comments in response to MaxTel’s Application?

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Wayne Hart

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