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

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF DESIGNATING SERVICE AREAS FOR THE PURPOSES OF RECEIVING 1998 TELECOMMUNICATIONS UNIVERSAL SERVICE FUNDS AND IN COMPLIANCE WITH THE FEDERAL TELECOMMUNICATIONS ACT OF 1996. | )  )  )  )  )  )  )  ) | CASE NO. GNR-T-98-8  NOTICE OF MODIFIED PROCEDURE  ORDER NO.  27632 |

On July 6, 1998, Commission Staff recommended the Commission open a new docket to consider how  the “service area” for an incumbent local exchange carrier (“ILEC”) and for a competitive local exchange carrier (“CLEC”) should be determined by the Commission for the purpose of receiving 1998 Telecommunications Universal Service Fund (“Telecommunications USF”) support.

After considering the law and Staff’s decision memorandum, by this Order, the Commission opens this docket using Modified Procedure to consider how the Commission should determine what areas in which “universal service” must be offered by an ILEC or by a CLEC in order for it to receive both federal USF and Telecommunications USF.  Commission Rules of Procedure 201-204, IDAPA 31.01.01.201-04.

BACKGROUND

The 1998 Legislature amended Idaho Code § 62-610 creating a1998 Telecommunications Universal Service Fund.  See Idaho Code §§ 62-610A-F.  Idaho Code § 62-610F anticipates that the Telecommunications USF will be established by March 1, 1999.  Once established, disbursements from the Telecommunications USF will be used to defray costs for providing “universal service” to customers within a geographic area — the “service area” designated by the Commission.  By statute, the Commission determines what “universal services” will be supported by the Telecommunications USF, determines the costs for providing those universal services, and designates the geographic areas within which the telecommunications carriers seeking Telecommunications USF must provide those “universal services.”  Likewise, similar federal provisions give State commissions authority to designate the geographic areas within which telecommunications carriers seeking federal USF must provide certain core or universal services designated by the FCC.  47 U.S.C. § 214(e).

Before an ILEC or a CLEC may receive federal USF or Telecommunications USF, it must be designated as an “eligible telecommunications carrier” (“ETC”) by the Commission.  Idaho Code § 62-610B(1); Idaho Code § 62-610D; 47 U.S.C. § 214(e).  Federal universal service support includes high-cost support, as well as, reimbursement for discounts provided to low-income customers in the Lifeline and Link Up programs.(footnote: 1)

The Commission must also designate the ETC’s “service area.”  Under the federal USF, an ETC’s service area is defined as a “geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms.”  47 U.S.C. § 214(e)(5).  Where the ETC is also a rural telephone company, as defined in the federal Telecommunications Act of 1996, the service area is defined as the carrier’s study area.  Id.

Likewise, for the purposes of the Telecommunications USF, the Commission must establish “geographic service areas for the purpose of determining universal service obligations of eligible telecommunications carriers.”  Idaho Code §62-610E.  The “service area” served by a rural telephone company means “the company’s ‘study area(s)’ as established by the federal communications commission and the commission.” Idaho Code § 62-610B(3).  In the case of a non-rural telecommunications company, the “service area” is the ETC’s current or Commission approved “service territory.” Id.

In its Universal Service Order (FCC 97-157), the FCC recommended that a designated ETC’s “service area” should at least be “sufficiently small to ensure accurate targeting of high cost support and to encourage entry by competitors.”  It further advised against simply designating service areas that fit the contours of the existing or incumbent provider, because new entrants, especially commercial mobile radio service-based providers, might find it difficult to conform their signals or service areas to the precise contours of the incumbent’s area.  This could give the incumbent an advantage and, thus, undermine competition.

On December 27, 1997, the Commission opened a docket to consider how costs will be calculated using a “forward-looking cost methodology.”  GNR-T-97-22.  That case is still open and under Commission consideration.  On July 2, 1998, Staff recommended the Commission open a new docket, GNR-T-98-7, to define “universal services.” Idaho Code § 62-610B(6). The Commission opened GNR-T-98-7 on July 7, 1998.  Order No. 27620.  Staff now recommends opening a docket to determine what factors the Commission will consider in designating the geographic areas within which the telecommunications carriers seeking Telecommunications USF must provide those “universal services.”

Staff Recommendation

Staff recommended that a new docket be opened and that the Commission invite public comment concerning how service areas should be designated.

Staff further recommended the Commission adopt a twenty-one (21) day comment period with reply comments being filed within seven (7) days of opening comments.

NOTICE OF MODIFIED PROCEDURE

YOU ARE HEREBY NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and, therefore, 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 through -.204.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this matter may file a written comment with the Commission within forty-five (45) days from the date of this Notice and replies to those written comments may be filed within twenty-one (21) days after the initial comments are filed.  The comment must contain a statement of reasons supporting the comment.  Persons desiring a formal hearing must specifically request a formal hearing in their written comments.  Written comments concerning this matter shall be mailed to the Commission and the Commission Staff at the addresses reflected below:

COMMISSION SECRETARYJOSEPH CUSICK

IDAHO PUBLIC UTILITIES COMMISSIONIDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720COMMISSION STAFF

BOISE, IDAHO  83720-0074PO BOX 83720

BOISE, IDAHO  83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST

BOISE, IDAHO  83702-5983

These comments should contain the case caption and case number shown on the first page of this document.

YOU ARE FURTHER NOTIFIED that if no written comments 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 the Commission intends to consider what criteria it should consider and how it designates the geographic area or service area within which each ILEC and CLEC must offer those “universal services” in order to be eligible to receive Telecommunications USF and as required by the federal Telecommunications Act of 1996.

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.

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 and Title 62.

YOU ARE FURTHER NOTIFIED that persons desiring to be served with initial and reply comments in this proceeding should contact the Commission Secretary in writing no later than fourteen (14) days from the service date of this Order.  The Commission will create a service list and provide it to interested persons.  Persons filing initial and/or reply commentswill be required to serve their comments on members of the service list.

O R D E R

IT IS HEREBY ORDERED that Case No. GNR-T-98-8 is initiated for the purposes set forth above.

IT IS FURTHER ORDERED that initial written comments regarding Staff’s proposal must be received within forty-five (45) days of this Order and reply comments must received within twenty-one (21) days of the initial comments.

IT IS FURTHER ORDERED that those persons desiring to receive comments filed in this case must notify the Commission Secretary no later than fourteen (14) days from the service date of this Order.  Once the Commission Secretary has received the service requests, she shall issue a Notice of Interested Persons desiring to be served with comments in this case.  Persons submitting comments to the Commission are required to serve those persons on the Commission’s service list.DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of July 1998.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

O:gnrt988.cc

**FOOTNOTES**

1:

The FCC Lifeline program currently reduces charges for low-income consumers in those states participating in the program.  Link Up assists low-income subscribers to acquire new telephone service by paying half of the first $60.00 charge for the installation of service.  Idaho participates in both programs.

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

July 16, 1998