DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

RITA SCOTT

STEPHANIE MILLER

DAVE SCHUNKE

JOE CUSICK

DON HOWELL

BEV BARKER

DAVID SCOTT

WORKING FILE

FROM:CHERI C. COPSEY

DATE:JULY 6, 1998

RE:GENERAL POLICY DOCKETCONCERNING DESIGNATION OF USF SERVICE AREAS AS REQUIRED BY THE TELECOMMUNICATIONS ACT OF 1996 AND IDAHO CODE § 62-610D(2)—CASE NO. GNR-T-98-8.

The 1998 Legislature amended Title 62 to create the1998 Telecommunications Universal Service Fund (“Telecommunications USF”) at 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 support area.  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).

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.  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). 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.”

BACKGROUND

Before a telecommunications carrier 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 would give the incumbent an advantage and, thus, undermine competition.

STAFF RECOMMENDATION

Staff recommends that a new docket be opened and that the Commission invite public comment concerning how service areas should be designated.  It is within those areas that “universal service” must be offered by ETCs in order to receive both Federal USF and Telecommunications USF.

Staff recognizes that many uncertainties surround the implementation of both the Federal USF and the Idaho Telecommunications USF.  For example, no cost model has been adopted by either the Commission or the FCC.  However, as more carriers request Certificates of Public Convenience and Necessity to operate as CLECs and request ETC designation, the Commission must decide how it is going to designate “service areas” for both Federal USF and Telecommunications USF purposes.  The implications from designation are significant.  The issues are already before the Commission.  However, they are being presented on a case by case basis.

Service areas can be established when a CLEC requests a Certificate of Public Convenience and Necessity to operate as a CLEC in an incumbent’s territory.  Simply granting a CLEC’s requested “service territory” is not necessarily an appropriate “service area” for Federal USF and Telecommunications USF purposes.  Too small an area does not promote competition and may discourage it.  Too large an area may likewise discourage competition.  Moreover, if a CLEC is also a rural telephone company,(footnote: 2) its study area is its service area for Federal USF and Telecommunications USF purposes.

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

Commission Decision

Does the Commission want to solicit public input concerning designation of those areas in which “universal service” must be offered by ETCs in order to receive both Federal USF and Telecommunications USF?

Does the Commission want to adopt a twenty-one (21) comment period and a seven (7) day reply period?

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cheri C. Copsey

**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.

2:

Idaho Code § 62-603(10) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) Provides common carrier service to any local exchange carrier study area that does not include either:

(i) any incorporated place of ten thousand (10,000) inhabitants or more, or any part thereof, based on the most recently available population statistics of the bureau of the census; or

  (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the bureau of the census as of August 10, 1993;

(b) Provides telephone exchange service including exchange access, to fewer than fifty thousand (50,000) access lines;

(c) Provides telephone exchange service to any local exchange carrier study area with fewer than one hundred thousand (100,000) access lines; or

(d) Has less than fifteen percent (15% ) of its access lines in communities of more than fifty thousand (50,000) on the date of enactment of the federal telecommunications act of 1996.