DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

MYRNA WALTERS

TONYA CLARK

DON HOWELL

STEPHANIE MILLER

DAVID SCHUNKE

JOE CUSICK

DAVID SCOTT

WORKING FILE

FROM:WELDON STUTZMAN

DATE:FEBRUARY 18, 1997

RE:CASE NOS. GTE-T-97-3 AND ATT-T-97-1

ARBITRATION FOR AT&T AND GTE, GTE’S CLAIM TO RURAL TELEPHONE COMPANY EXEMPTION

Section 251(f) of the Telecommunications Act of 1996 provides an exemption for incumbent local exchange carriers that are also rural telephone companies.  Specifically, the Act’s interconnection and resale requirements “shall not apply to a rural telephone company until (i) such company has received a bonafide request for interconnection, services, or network elements and (ii) the state commission determines that such request is not unduly economically burdensome, is technically feasible, and is consistent with Section 254 [universal service].”  GTE previously sent written correspondence to the Commission informing the Commission that it regards its operations in Idaho as entitled to the exemption.

Paragraph (B) of Section 251(f) requires a state commission to terminate the exemption under certain circumstances.  After a party makes a request of a rural telephone company for interconnection, and submits a notice of  its request to a state commission, the commission is required to conduct an inquiry for the purpose of determining whether to terminate the exemption.  Within 120 days after the commission receives notice of the interconnection request, the commission must terminate the exemption if the request is not unduly economically burdensome, is technically feasible, and is consistent with the universal service section.

On February 7, 1997, the Commission received a Petition for Arbitration from AT&T to resolve interconnection issues with GTE.  Exhibit 4 of the Petition is a copy of AT&T’s request for interconnection with GTE.  Thus, the Commission received a notice of the AT&T request to GTE on February 7, and has 120 days to determine whether the rural telephone company exemption applies to GTE.

The Telecommunications Act does not provide a process for a commission to determine whether the rural exemption applies.  The Commission could initiate a separate docket and provide a process for the parties to present the issue to the Commission.  Alternatively, the Commission could determine the rural exemption question as a part of the arbitration process for AT&T and GTE.

Commission Decision

Should the Commission initiate a separate docket to determine whether GTE is entitled to the rural telephone company exemption for its Idaho operations?  Alternatively, should the issue be presented as part of the arbitration proceeding?  Regardless, what process should be provided to the parties to present evidence to the Commission?

Weldon B. Stutzman

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