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BEFORE  THE  IDAHO  PUBLIC  UTILITIES  COMMISSION

IN THE MATTER OF THE JOINT APPLICA­TION)

OF NEXTEL COMMUNICATIONS AND GTE)CASE  NO.  GTE-T-97-10

NORTHWEST INCORPORATED FOR )

APPROVAL OF AN AGREEMENT FOR INTER-)COMMENTS OF THE

CONNECTION PURSUANT TO 47 U.S.C. § 252(e).)COMMISSION STAFF

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COMES  NOW  the Staff of the Idaho Public Utilities Commission, by and through     its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, in response to the   Notice of Application and Notice of Modified Procedure in Case No. GTE-T-97-10 issued September 9, 1997, submits the following comments.

BACKGROUND

On August 4, 1997, GTE Northwest, Incorporated (GTE) and Nextel Communications (Nextel), a provider of wireless telecommunications services, submitted a joint application for approval of an interconnection agreement in accordance with Section 252(e)(1)(2)(A) of the Federal Telecommunications Act of 1996.

STAFF INVESTIGATION

Staff compared the language of this agreement with the agreement GTE executed with AT&T Wireless Services, which was approved by the Commission in Order No. 27066.  For the most part, the terms and conditions are identical.  Most of the differences between the two agreements that were identified were simply editorial changes or changes reflecting the different sizes and capabilities between Nextel and AT&T.  Staff believes these changes to be reasonable.  However, there are two areas where the changes may be more questionable.

1.On page III-4 of the agreement GTE claims the right to refuse to release a customer’s number to Nextel if the customer has an outstanding balance, until the outstanding balance has been paid.  Staff believes this clause may be a violation of the number portability provisions of the Federal Telecommunications Act.  While the current FCC regulations do not appear to address this specific question, Staff is concerned that it does appear to challenge the basic principles of number portability.  Number portability is not mandated for the GTE service area until 1999, at the earliest, which is beyond the one-year term for this agreement.

Staff notified both GTE and Nextel of the concern about this provision and suggested it be addressed in negotiations for any subsequent extension of this agreement.

2.On page IV-9, the Nextel agreement does not include an entire section on Ordering and Provisioning that was included in the AT&T Wireless Services agreement.  This is an area that has received considerable attention at the national level, with charges and countercharges about discrimination and preferential treatment for the incumbent local exchange company’s access to the support system for processing orders and repairs.  With all of the controversy that has surrounded this issue the inclusion of specific requirements in the contract with one utility, while no mention of the issue is made in the contract with a competitor, leaves GTE vulnerable to charges of discrimination.

Staff also raised this issue in its discussions with Nextel and GTE.  This issue would only be important in the event that Nextel is not satisfied with the performance of GTE with respect to ordering and provisioning.  Given the short one-year time frame for this agreement, it will not be

long before Nextel will have an opportunity to seek the inclusion of specific performance requirements in any extension of this agreement should Nextel find such terms to be in its best interest.

STAFF RECOMMENDATION

Staff recommends the Commission approve the interconnection agreement as filed.

DATED  at Boise, Idaho, this            day of September 1997.

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Weldon B. Stutzman

Deputy Attorney General

Technical Staff:  Wayne Hart

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