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BEFORE  THE  IDAHO  PUBLIC  UTILITIES  COMMISSION

IN THE MATTER OF THE PETITION OF )

GTE NORTHWEST INCORPORATED FOR)CASE  NO.  GTE-T-97-12

DESIGNATION AS AN ELIGIBLE)

TELECOMMUNICATIONS CARRIER IN THE)

STATE OF IDAHO PER FCC UNIVERSAL )COMMENTS OF THE

SERVICE REPORT AND ORDER NO. 96-45.)COMMISSION STAFF

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COMES  NOW  the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Donald L. Howell, II, Deputy Attorney General, and in response to Order  No. 27196 and the Notice of Modified Procedure filed October 29, 1997, submits the following comments.

BACKGROUND

On October 17, 1997, GTE Northwest Incorporated filed a Petition requesting that the Commission designate it as an “eligible telecommunications carrier” pursuant to the federal Telecommunications Act of 1996 no later than January 1, 1998.  GTE serves approximately 100,000 customers in northern Idaho.

In its Petition, GTE asserts that it offers the following services using its own facilities and generally advertises the availability of these services pursuant to 47 U.S.C. § 214(e)(1)(A) and (1)(B):

single-party service

voice grade access to the public switched network

touch-tone service

access to emergency services, including 911 and E911

access to operator services

access to interexchange service

access to directory assistance

GTE further asserts that it offers Lifeline services consistent with Idaho statutes and has made Link Up services(footnote: 1) available for qualifying low-income consumers.

GTE states that it can provide toll blocking, “but does not presently have the capability of providing ‘toll control’ as described by the FCC.”  GTE Petition at 4.  “In case the FCC intends that both toll limitation services be offered, GTE requests the Commission to grant it waiver of the ‘toll control’ requirement, as authorized by the FCC Order.”  Id. GTE also states that it is in the process of investigating whether modifications to its advanced credit management system could meet the FCC’s toll control requirements.  GTE notes that even if it can modify its systems to provide a toll control service, “such a toll limitation process can be effective only to the degree that interexchange carriers supply rated toll billing records to GTE on a timely basis for inclusion in the customers’ incurred balances and comparison to account credit limits, a practice that is not common in the industry at this time.”  Id. at 4.  Consequently, GTE requests a waiver of the toll control requirement for a period of 12 months, until January 1, 1999.

GTE stated that it intends to provide its Lifeline customers toll-blocking at no charge.  At such time as toll control services become available, then Lifeline customers will be afforded the option of converting from “the toll-blocking . . . to a toll control service at no charge when the service becomes available.”

GTE further requests that the ETC designation apply to GTE’s study area in Idaho.

On October 29, 1997, the Commission issued Order No. 27196, providing notice of the Petition and providing notice that the proceeding would be conducted according to the Commission’s Rules for Modified Procedure.

STAFF ANALYSIS

1.  Designation as “Eligible Telecommunications Carrier.”

Before a telecommunications carrier may receive federal Universal Fund support, it must be designated as an eligible telecommunications carrier by the state regulatory commission.  47 U.S.C. § 214(e)(2).  Federal universal service support includes high-cost support, reimbursement for discounts provided to low-income customers in the Lifeline and Link Up programs, and support for health care providers.

To be designated as an eligible telecommunications carrier, a LEC must offer “services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services” and “advertise the availability of such services and the charges therefor using media of general distribution.”  47 U.S.C. § 214(e).  In its Order released May 8, 1997, the FCC designated the following services as required “core” services “supported by universal service support mechanisms under section 254(c)” that must be provided by the LEC in order to qualify as an ETC:

single-party service

voice grade access to the public switched network

touch-tone service

access to emergency services, including 911 and E911

access to operator services

access to interexchange service

access to directory assistance

toll limitation services for qualifying low-income consumers

FCC’s Universal Service Order, CC Docket No. 96-45, FCC 97-157 at ¶¶ 61-82 (to be codified at 47 C.F.R. § 54.101).  GTE certifies that it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area.

Staff confirmed that GTE offers the above-listed services using its own facilities and generally advertises the availability of these services with the possible exception of toll control as defined by 47 C.F.R. § 54.400.

In its Petition, GTE requested the Commission to grant a waiver of the toll control requirement, and as is explained more fully below, Staff recommends granting such a waiver.   Therefore, Staff finds GTE meets the minimum criteria for designation as an Eligible Telecommunications Carrier, and recommends granting this request.

2.  ETC Service Area.

GTE requested the ETC designation apply throughout its Idaho study area, which includes all the areas identified in GTE’s Certificate of Public Convenience and Necessity issued by the Commission.  The 1996 Act defines ETC service area 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).

In its Universal Service Order (FCC 97-157), the FCC expressed concern that designating an entire study area as a single ETC service area might pose a barrier to competition because it may be a hardship for competitors to serve such a large and/or dispersed area.  The FCC concurred with the Joint Board’s findings that a single large service area might be viewed as anti-competitive and a violation of numerous sections of the 1996 Act.

The FCC recommended that a designated ETC 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 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, giving the incumbent an advantage and, thus, undermining competition.

Staff generally agrees with the FCC’s concerns.  However, there are a number of specific issues, particularly the nature of the federal Universal Service Fund support program and competition in general, that remain unresolved.  These issues have significant implications for ETC service area designations.  Therefore, Staff does not have sufficient information at this time to make a fully informed recommendation as to what smaller ETC service areas would be most appropriate for GTE.Neither GTE nor its competitors become eligible for USF payments under the revised Universal Service Fund program until January 1999.  Therefore, Staff recommends designating the entire Idaho study area as a single ETC service area at this time and further recommends revisiting the issue prior to January 1999.  At that time, Staff anticipates many of the uncertainties surrounding the implementation of the Universal Service Fund program, telecommunications competition, and the implications of such a service area decision will be resolved.  With that information, Staff will have a basis for recommending service areas smaller than the entire study area.  Designating the entire study area as a single ETC service area now will allow the state to comply with the January 1, 1998 deadline, yet not preclude a more thorough examination of the issues before the designation could prove harmful.

3.  Waiver of Toll Control Requirement.

GTE requested the Commission to suspend or waive any requirement that GTE provide “toll control” as defined in 47 C.F.R. § 54.400.  The FCC includes “toll limitation” as one of the services that must be provided in order to be eligible for the federal universal service support mechanisms.  47 C.F.R. §54.101(9).  “Toll limitation” is defined to include both “toll blocking” and “toll control.” 47 C.F.R. §54.400(d).  “Toll blocking” is currently available in most Idaho exchanges and simply prohibits the customer from making long-distance calls.  “Toll control” permits a customer to limit the toll charges he or she can incur during a billing period to a preset amount.  This latter service requires a substantial integration between the CO switch and the billing records of the customer.  While GTE has provided a form of toll control longer than any other telephone company in Idaho, GTE’s toll control limits a customer’s cumulative toll charges, rather than monthly charges.  Therefore, GTE’s toll control does not appear to meet the FCC’s requirements for toll control.

The FCC acknowledged that many utilities may not currently possess the technical ability to provide all toll limitation services and authorized State commissions to grant a limited waiver of this requirement upon a “finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing . . . toll limitation.”  47 C.F.R. §54.101(c).  The waiver should be limited to that time the “state commission deems necessary for that eligible telecommunications carrier to complete network upgrades.”  Id.  In addition, the FCC only required ETCs “incapable of providing toll limitation services ... to provide at least toll blocking in any switch upgrade.”  Universal Service Order ¶ 388.  The Order is silent as to toll-control on switch upgrades.

As GTE pointed out in its Petition, monthly toll control will require changes in the manner in which toll carriers provide billing information to the local exchange carrier.  Staff agrees that such changes can not reasonably be expected to be implemented in a short period of time.

Based on Staff’s experience with GTE’s cumulative toll control supports, Staff believes that a long phase-in period is necessary for introducing such a complex service.  Customer education is required for an effective toll control program.  Implementing such a complex effort without ensuring that all the procedures are in place and that proper Staff and customer education have been completed invites customer confusion rather than acceptance.

Therefore, Staff finds these circumstances to be exceptional and recommends granting GTE a waiver of the requirement to provide toll control as defined in 47 C.F.R. §54.400(c).  GTE stated it would continue to provide toll blocking.  As both toll blocking and cumulative toll control will be available to the Petitioner’s customers, Staff believes that monthly toll control should be implemented in an orderly manner.  Staff recommends that the Commission grant GTE’s waiver request for a period of one year until January 1, 1999.

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

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Donald L. Howell, II

Deputy Attorney General

Technical Staff:Wayne Hart

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**FOOTNOTES**

1:

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.  To be eligible for this program, an eligible subscriber must meet the state-established means test.  Link Up currently is funded through an adjustment that allocates the incumbent LEC’s link-up cost to the interstate jurisdiction, effectively passing them onto interexchange carriers.  Universal Service Fund Order at ¶ 344.