WELDON B. STUTZMAN

DEPUTY ATTORNEY GENERAL

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0318

Street Address for Express Mail:

472 W WASHINGTON

BOISE ID  83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF THE JOINT APPLICA­TION OF PREPAID LOCAL ACCESS PHONE SERVICE COMPANY AND GTE NORTHWEST FOR APPROVAL OF AN AGREEMENT FOR INTERCONNECTION PURSUANT TO 47 U.S.C. § 252(e). | )  )  )  )  )  )  )  ) | CASE NO. GTE-T-98-6  COMMENTS OF THE  COMMISSIONS STAFF |

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 Order

No. 27867, the Notice of Joint Petition for Approval of Interconnection­­ Agreement

and Notice of Modified Procedure in Case No. GTE-T-98-6 issued January 13, 1999, submits the following comments.

On November 27, 1998, GTE Northwest Incorporated  (GTE), and Pre-Paid Local Access Service Co. (Pre-Paid), a local exchange service reseller, submitted a joint application for approval of an agreement for service resale in accordance with Section 252(e) of the Federal Telecommunications Act.  The companies indicated the agreement had been reached through voluntary negotiations, and claimed the agreement is consistent with the public interest, convenience and necessity.  They requested the Commission approve the agreement without a hearing or intervention by other parties.

Section 252 indicates that such agreements are to be submitted to state commissions for approval.  Agreements adopted through negotiation may only be rejected if the state commission finds that:

(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience and necessity:

STAFF ANALYSIS

Staff reviewed the terms and conditions of the agreement, and with the exception of the concerns noted below, staff did not find any of the terms or conditions to be discriminatory.  As the agreement is the result of voluntary negotiations, and is not discriminatory, Staff does not believe the agreement is contrary to the public interest, convenience or necessity.

This is the second resale agreement submitted to this Commission by GTE.  The first agreement contained elements that restricted the resale of basic local exchange service to residential customers.  Due to concerns about the lawfulness of these elements, the Commission chose to take no action on that agreement.  Under the terms of the federal Telecommunications Act of 1996, the agreement became effective without Commission action.

This agreement does not contain such elements, but instead imposes an Interim Universal Service Support Charge upon all resold basic services.  The language of the agreement indicates the lawfulness of this surcharge is being addressed, or will be addressed, by a court of competent jurisdiction.  The agreement provides that Pre-Paid may resell such services without immediately paying the interim surcharge, but Prepaid agrees to pay the surcharge, and a lump sum for the total interim surcharge that would have accrued back to the effective date of the agreement, if and when a court finds the interim surcharge to be lawful.

Staff is concerned that the Commission’s decision regarding this agreement may be interpreted as a Commission decision on interim surcharge concept and/or the actual surcharge rates.  Staff believes the lawfulness and appropriateness of the surcharge to be outside of the scope of this docket.

STAFF RECOMMENDATION

Staff recommends the Commission approve this interconnection agreement as filed, but indicate in its decision on this agreement that it is not reaching a conclusion regarding the appropriateness or lawfulness of the Interim Universal Service Support Charge contained within the agreement.  In the alternative, the Commission could simply chose to not take action, and allow the agreement to become effective without Commission approval.

DATED  at Boise, Idaho, this            day of February 1999.

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

Weldon B. Stutzman

Deputy Attorney General

Technical Staff: Wayne Hart

ws:WH:jo/umsic\comment\gtet986.ws