

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF
IDACOMM, INC. FOR AN IDAHO TAX CREDIT
FOR INSTALLING QUALIFIED BROADBAND
EQUIPMENT.**

CASE NO. IZ2-T-04-2

ORDER NO. 29511

On April 21, 2004, IDACOMM, Inc. filed an Application requesting that the Commission find the Company eligible to receive an Idaho investment tax credit. Pursuant to *Idaho Code* § 63-3029I, an Idaho taxpayer may receive a tax credit for installing “qualified broadband equipment” in Idaho. To be eligible for the tax credit, the taxpayer must obtain from the Commission an Order confirming that the equipment has been installed and that it meets the definition of qualified broadband equipment set out at *Idaho Code* § 63-3029I(3)(b). Briefly, qualified broadband equipment must be capable of transmitting signals at a rate of at least 200,000 bits per second (bps) to a subscriber and at least 125,000 bps from a subscriber. In the case of telecommunications service provider, the qualified broadband equipment must also “be necessary to the provision of broadband service and an integral part of a broadband network.” *Idaho Code* § 63-3029I(3)(b)(i). In this Order, we find that IDACOMM has installed qualified broadband equipment.

THE APPLICATION

In its Application, IDACOMM states that it is a facilities-based telecommunications service provider delivering high-speed broadband telecommunications services (Internet and other point-to-point data services) to business customers throughout the Treasure Valley. During 2003, IDACOMM states that it expanded its existing optical transport network by installing fiber optic cable, line cards, supporting power supply and electronics. IDACOMM indicates in its Application that it offers network transmission rates from 1.544 megabits per second (Mbps) up to 1,000 Mbps. The Company maintains that its 2003 broadband investment was approximately \$840,000 and included right-of-way fees related to its various broadband construction projects.

STAFF REVIEW

To implement its responsibilities under *Idaho Code* § 63-3029I, the Commission issued Procedural Order No. 28784 in July 2001. This Order identifies information that must be

included in an Application for a broadband credit. Once the information has been filed, the Commission Staff reviews the Application and submits a recommendation to the Commission.

Staff has reviewed the list of broadband equipment installed by IDACOMM. Staff believes that the equipment is necessary for the provision of broadband services and is an integral part of a broadband network. Consequently, Staff recommends that the Commission issue an Order approving IDACOMM's Application.

FINDINGS

Having reviewed IDACOMM's Application and Staff's recommendation, we find that the Application for a qualifying broadband equipment Order should be granted. As we noted in last year's tax credit Order, IDACOMM's use of "dark" fiber optic cable for its broadband network meets the Federal Communications Commission's definition of providing a telecommunications service. Order No. 29285 at 2. We find that the Company has demonstrated that it installed qualifying broadband equipment during 2003 in conformance with *Idaho Code* § 63-3029I. We further find that as configured, the installed equipment is an integral part of a broadband network necessary to deliver broadband services to Idaho customers. *Idaho Code* §§ 63-3029I(3)(b)(i, v-vi).

As noted above, the Staff reported that IDACOMM included right-of-way fees it incurred as part of its broadband investment. The Commission makes no findings regarding whether these right-of-way fees may properly be included in the costs of qualifying broadband equipment. That decision is best left to the Tax Commission.

ORDER

IT IS HEREBY ORDERED that IDACOMM's Application for an Order certifying that it has installed qualifying broadband equipment is granted.

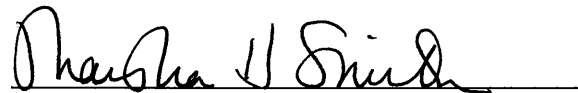
IT IS FURTHER ORDERED that a copy of this Order and a copy of the Application be served upon the Idaho State Tax Commission.

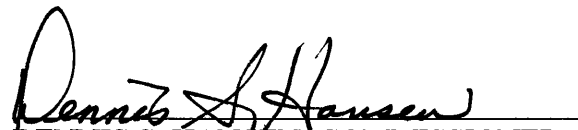
THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. IZ2-T-04-2 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. IZ2-T-04-2. Within seven (7) days after any person has petitioned for

reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* §§ 61-626 and 62-619.

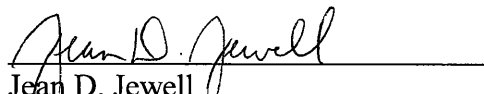
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 4th day of June 2004.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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