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BEFORE  THE  IDAHO  PUBLIC  UTILITIES  COMMISSION

IN THE MATTER OF THE APPLICATION)

OF LCI INTERNATIONAL TELECOM)CASE  NO. LCI-T-97-1

CORP. FOR A CERTIFICATE OF PUBLIC)

CONVENIENCE AND NECESSITY TO)

PROVIDE LOCAL EXCHANGE SERVICE)COMMENTS OF THE

AS A COMPETITIVE LOCAL CARRIER.)COMMISSION STAFF

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COMES  NOW  the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon Stutzman, Deputy Attorney General, and submits the following comments for the Commission’s consideration in Case No. LCI-T-97-1.

BACKGROUND

On June 9, 1997, LCI International Telecom Corp. (LCI) filed an application for a Certificate of Public Convenience and Necessity (CPCN) in compliance with Commission Rules of Procedures, IDAPA 31.01.01.111 and Procedural Order No. 26665.  LCI filed a number of amendments to its application, to better comport with applicable Idaho law and Commission Rules.  LCI currently is authorized to provide telecommunications service pursuant to Title 62 of the Idaho Code and is seeking authorization to provide local exchange service pursuant to

Title 61 to Idaho residences and businesses within the U S WEST and GTE service areas through a resale arrangement.  At present, LCI has not obtained an interconnection agreement with

U S WEST or GTE.

DISCUSSION

Staff has reviewed the application submitted by LCI and believes that it meets the requirements of the Commission’s Rules and Procedural Order No. 26665, which sets out necessary information to be included with an application for a certificate submitted by a new local exchange provider in Idaho.  LCI had requested certain waivers from Commission rules, but has since withdrawn all requests except for that portion of Rule 31.41.02.102, Notices to Customers of Proposed Changes in Rates (Rule 102).  LCI has requested that a waiver be granted for that portion of the rule that requires television and radio announcements of proposed rate increases.  Staff believes that this is a reasonable request and recommends approval of this request.  With the exception of television and radio announcements for rate increases, LCI has agreed to comply with the Commission’s rules and procedures.

Staff would like to note, however, that possible slamming practices by LCI are of concern.  Staff has examined the Commission’s records of a total of 22 informal complaints and inquiries regarding LCI’s interexchange and operator service for 1996, 12 for 1997, and 1 from January 1 to March 31, 1998.  The records consist of the Commission’s Consumer Assistance Staff’s electronic documentation of conversations with LCI’s customers and various telecommunications companies’ representatives as well as correspondence, bills, and other written materials.  Staff does not know the total number of LCI’s interexchange customers and thus cannot fully evaluate the total extent of consumer problems.  However, in Staff’s experience, the total number of complaints received by the Commission normally do not accurately reflect the total magnitude of consumer problems.

The primary areas of concern expressed by Idaho consumers involve billing disputes.  Since January 1996 to March 31, 1998, there have been 5 allegations of “slamming”, the unauthorized switching of interexchange carriers.  Four instances occurred in southeastern Idaho in 1996.  There was only one slamming allegation in 1997 and none for the first quarter of 1998.

LCI had 145 consumer complaints filed against it with the Federal Communications Commission regarding allegations of slamming in 1996 (Common Carrier Scorecard Report, December 1997).  Appendix B of that FCC report (included with Staff comments as Attachment A) shows the number of slamming complaints filed against carriers, resellers, and billing agents.

According to TR Daily (September 25, 1996 issue) LCI entered into a consent decree with the Enforcement Division of the FCC’s Common Carrier Bureau to resolve a “slamming” allegation against the carrier.  Last fall, the bureau found LCI “apparently liable” for a $40,000 fine for violating the FCC’s rules against unauthorized changes to customers’ presubscribed interexchange carriers.  According to a copy of the consent decree released, LCI did not admit any alleged violations of the slamming rules, but did agree to make a “voluntary contribution” of $15,000 to the U.S. Treasury.  In addition, LCI agreed to send a written advisory to sales agents and modify its sales manuals to make clear that sales representatives may not sign “letters of agency” authorizing PIC changes on customer’s behalf.

STAFF RECOMMENDATIONS

Because of LCI’s alleged slamming practices, Staff recommends approval of LCI’s application, with the condition that no slamming complaints are received by the Commission for the remainder of 1998.  In Order No. 27356, the Commission noted:

.....it would be dilatory in its duty if it did not take strong action where slamming is alleged.  It is not in the public’s interest to issue any new carrier a Certificate of Public Convenience and Necessity to provide local telecommunications service where that carrier already has a strong history of slamming consumers in Idaho . . .

Staff recognizes that the number of slamming allegations by Idaho consumers against LCI have decreased over time.  It is possible that actions taken by LCI after entering into its consent agreement with the FCC have had the desired effect of decreasing slamming.  It may be too soon to tell whether the practice has been eliminated altogether in Idaho.

Staff recommends that LCI be granted a Certificate of Public Convenience and Necessity, conditioned on no slamming complaints lodged with the Commission for the remainder of 1998.

Respectfully submitted this               day of April 1998.

Weldon Stutzman

Deputy Attorney General

Technical Staff:  Carolee Hall

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