

DECISION MEMORANDUM

TO: COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSIONER KEMPTON
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: TERRI CARLOCK

DATE: MARCH 20, 2009

RE: SUBJECT: MIDVALE TELEPHONE COMPANY'S LETTER PETITION.

Midvale Telephone (Midvale; Company) filed on February 20, 2009, a letter regarding the proposed Employee Stock Ownership Plan (ESOP) it is working to adopt. Midvale does not believe the proposed change of ownership of the stock requires Commission approval but wants the Commission to verify its conclusion.

Midvale is currently owed by two shareholders, Lane Williams and Shirley Archer. Mr. Williams, shareholder and past operator, has pursued the ESOP to ensure the Company can be owned by employees who have and are operating the business. This also ensures the operations continue in the current form rather than being sold to a third party. The shares owned by Ms. Archer are currently held by her estate.

Other than ownership of the shares, the plan to convert to an ESOP does not create changes for the utility. The utility assets will continue to be owned and operated by Midvale. The current debt obligations will also be retained by Midvale. Additional debt will not be incurred by Midvale for the establishment of the ESOP. An ESOP Trust will be established as a benefit/retirement fund for Midvale's employees. Midvale will make annual contributions to the ESOP trust with the amount governed by Rural Utility Service loan regulations and federal laws governing ESOPs.

STAFF ANALYSIS AND RECOMMENDATION

Staff is treating the Midvale letter as a Letter Petition for review as a Petition for Declaratory Order under Rule 101. Staff believes the proposed ESOP does not require Commission approval under *Idaho Code* §61-901.

Staff views the proposed ESOP essentially as personal estate planning. As such the annual contributions to the ESOP trust should not be included in the revenue requirement for Midvale in its next rate case. To verify that the final ESOP structure and plan is consistent with the proposal, Staff recommends all Documentation of the final ESOP structure and legal documents be filed with the Commission.

COMMISSION DECISION

Does the Commission wish to issue a declaratory Order stating that the Midvale ESOP as initially proposed in the letter does not require Commission approval?

Does the Commission accept Staff's recommendation to require the final ESOP documents be filed with the Commission?

Does the Commission want to provide an initial determination on the ESOP Trust contributions or leave such a determination to the next Midvale rate case?



iudmemo/Midvale ESOP