DECISION MEMORANDUM

TO: **COMMISSIONER KJELLANDER**
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: **GRACE SEAMAN**

DATE: **JANUARY 18, 2013**

RE: **ONE WAVE NETWORKS, LLC AND ONE WAVE NETWORKS BOISE LLC'S 2011 BROADBAND EQUIPMENT TAX CREDIT APPLICATION; CASE NO. OWN-T-12-01 AND OWB-T-12-01.**

BACKGROUND

In 2001, House Bill 377 was enacted authorizing income tax credit for the installation of qualifying broadband infrastructure in Idaho. *Idaho Code* § 63-3029B(3)(a)(ii). In particular, Section 63-3029I allows a taxpayer to receive an investment tax credit for eligible broadband equipment installed during a calendar year.

"Qualified broadband equipment" is defined as those network facilities capable of transmitting signals at a rate of at least 200,000 bits per seconds (bps) to a subscriber and at least 125,000 bps from a subscriber. *Idaho Code* § 63-3029I(3)(b). In the case of packet switching equipment, it is the last in a series of equipment that transmits signals to a subscriber or the first in a series of equipment that transmits signals from a subscriber. *Idaho Code* § 63-3029I(3)(b)(v). To be eligible for the tax credit, the taxpayer must obtain from the Commission an Order confirming that the installed equipment meets the statutory definition of qualified broadband equipment. Procedural Order No. 28784 and *Idaho Code* § 63-3029I(4). Once the Commission has determined the installed equipment is eligible for the broadband equipment tax credit, an order along with the original Application is forwarded to the Idaho Tax Commission.

THE APPLICATIONS

On December 13, 2012, the Commission received an Application from One Wave Networks, LLC ("One Wave" or "Company") and One Wave Networks Boise, LLC ("One Wave Boise" or "Company") seeking approval of equipment for the broadband tax credit for calendar

year 2011. In the Applications, One Wave and One Wave Boise states that it installed equipment associated with fixed wireless broadband connectivity services via its "high speed packet switched, carrier class, core network using state of the art wireless technology in order to deliver high speed reliable Internet service." One Wave installed equipment in the Treasure Valley and surrounding areas, while One Wave Boise installed equipment in the Magic Valley and surrounding areas. In the Applications, the Companies assert that it has been building and engineering "a core network [that] is capable of transmitting over 1 Gbps of traffic, which allow the company to deliver 1Mbps to 50 Mbps to [its] customers."

One Wave states that it added approximately 580 customers and invested approximately $359,500 in qualifying broadband equipment in 2011. One Wave Boise states that it added approximately 4 customers and invested approximately $143,000 in qualifying broadband equipment in 2011.

STAFF REVIEW AND RECOMMENDATION

Staff has reviewed the list of proposed broadband equipment submitted by One Wave and One Wave Boise and believes the identified equipment qualifies for the investment tax credit pursuant to Procedural Order No. 28784 and *Idaho Code* § 63-3029I(3)(b)(v). Staff also believes that the expenditures identified by the Companies, an Internet Service Provider, were for equipment that is "necessary for the provision of broadband services and an integral part of a broadband network." Staff, therefore, recommends that the Commission issue an Order confirming the equipment is qualified broadband equipment and forward the approving Order along with the a copy of the original Application to the Idaho Tax Commission.

COMMISSION DECISION

Does the Commission wish to issue an order confirming the equipment identified in Case Nos. OWN-T-12-01 and OWB-T-12-01 is qualified broadband equipment as defined in Idaho Code § 63-3029I(3)(b)(v), and forward it to the Idaho Tax Commission?

Grace Seaman

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