(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE PETITION OF  CENTURY TELEPHONE OF IDAHO, INC., POTLATCH TELEPHONE COMPANY AND TROY TELEPHONE COMPANY (d.b.a. TDS TELECOM) FOR DESIGNATION AS ELIGIBLE TELECOMMUNICATIONS CARRIERS. | )  )  )  )  )  )  ) | CASE NOS.  CEN-T-97-1                       POT-T-97-1                       TRO-T-97-1  ORDER NO.  27254 |

On October 20, 1997, Century Telephone of Idaho, Inc., Potlatch Telephone Company and Troy Telephone Company (d.b.a. TDS Telecom) filed a joint Petition requesting that the Commission designate each as an “eligible telecommunications carrier” pursuant to provisions of the federal Telecommunications Act of 1996. A company designated as an eligible telecommunications carrier (ETC), is then eligible to receive federal universal service support.  The Petitioners assert that each meets the requirements for designation as an ETC with one exception.  The Petitioners maintain that they cannot offer “toll control” service at this time and requested that they be granted waivers of toll control requirements.  They further requested they be designated as rural telephone companies for the purposes of receiving exemptions and other benefits in accordance with the federal Telecommunications Act.

In Order No. 27208 issued November 10, 1997, the Commission found that each of these matters could be processed under Modified Procedure.  The Commission requested that interested persons file written comments regarding these Petitions no later than December 1, 1997.  Only the Commission Staff filed written comments.

Based upon a review of the joint Petition, federal requirements and the Staff’s comments, the Commission grants Century’s, Potlatch’s and Troy’s joint Petition.

BACKGROUND

Before a telecommunications carrier may receive federal universal service support, it must be designated as an “eligible telecommunications carrier” by the appropriate state regulatory commission.  Federal universal service support includes high-cost support, reimbursement for discounts provided to low-income customers in the Lifeline and Link Up programs,(footnote: 1) and federal support for health care providers.  Designation as a rural telephone company exempts the rural telephone company from the Telecommunication Act’s interconnection and resale requirements until the company has received a bona fide request for interconnection, services, or network elements, and the state Public Utilities Commission determines that such request is technically feasible, consistent with Section 254 of the Telecommunications Act of 1996 and not unduly economically burdensome.  47 U.S.C. § 251(f)(1).

A “rural telephone company” is defined under state and federal law as:

. . .  a local exchange carrier operating entity to the extent that such entity

(a) provides common carrier service to any local exchange carrier study area that does not include either-

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

Idaho Code § 62-603 (10); 47 U.S.C. § 153 (37).

To be designated as an ETC, each Petitioner must offer “services that are supported by federal universal service support mechanisms . . ., either using its own facilities or a combination of its own facilities and resale of another carrier’s services” and “advertise the availability of such services and the charges therefore using media of general distribution.”  47 U.S.C. § 214(e).  In its Universal Service Order released in May 1997, the FCC designated the following services as “core” universal services and must be provided by the carrier in order to qualify as an ETC:

single-party service

voice grade access to the public switched network

touch-tone service

access to emergency services, including 911 and E911

access to operator services

access to interexchange service

access to directory assistance

toll limitation services for qualifying low-income consumers

FCC’s Universal Service Order, CC Docket No. 96-45, FCC 97-157 at ¶¶ 61-82 (codified at 47 C.F.R. § 54.101).  Each Petitioner certifies that it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area with the exception of toll control services.

The FCC requires that ETCs provide qualifying low-income consumers “toll limitation services” free of charge.  Toll limitation services includes both “toll blocking” and “toll control” services.  Universal Service Order at ¶ 383.  Toll blocking prohibits a customer from making long-distance telephone calls.  Toll control permits a customer to limit the toll charges he or she incurs during a billing period to a pre-set amount.  Id.  The FCC acknowledged that many utilities may not currently possess the technical ability to provide all toll limitation services and authorized State commissions to grant a limited waiver of this requirement upon a “finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing . . . toll limitation.”  Universal Service Order at ¶ 388; 47 C.F.R. § 54.101(c).  Waivers should be limited to that time the “state commission deems necessary for that eligible telecommunications carrier to complete network upgrades.”  Id.

The Universal Service Order also requires that the Commission designate the ETC service area.  An ETC service area is defined as a “geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms.”  47 U.S.C. § 214(e)(5).

The Telecommunications Act of 1996 defines the ETC “service area” as the “geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms.”  47 U.S.C. § 214 (e)(5).  In the case of an area served by a rural telephone company, “‘service area’ means such company’s ‘study area’ unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.”  Id.

CENTURY’S, POTLATCH’S AND TROY’S JOINT PETITION

Each Petitioner asserts that it offers all of the designated core services outlined above (except toll control) using its own facilities and generally advertises the availability of those services and that it is a rural telephone company.  The Petitioners, therefore, requested designation as rural telephone companies for the purposes of receiving exemptions and other benefits in accordance with the federal Telecommunications Act and designation as ETCs.  Each Petitioner also requested that the Commission apply the ETC designation throughout each Petitioner’s Idaho study area which includes the areas identified in the respective Certificates of Public Convenience and Necessity.  Finally, the Petitioners, like all other carriers requesting ETC status in Idaho, requested the Commission suspend or waive any requirement that the Petitioners provide “toll control” as part of the toll limitation services required to be offered by ETCs.

STAFF COMMENTS

Staff confirmed that, regardless of the criteria used, each Petitioner clearly qualified as a rural telephone company.  Staff Comments at 3.  The Petitioners also requested that the Commission suspend or waive any requirement that they provide “toll control” services. The Staff recommended that the Commission grant the Petitioners’ waiver requests given the complexity of toll control services and the time the Petitioners need to evaluate the technical feasibility of such a program.  Staff Comments at 4-5.  The Staff recommended those waivers be granted for a three year period.  Id.

In designating a telephone carrier as an ETC, the Commission must also designate the appropriate service and support areas.  47 U.S.C. § 214 (e)(2) and 47 U.S.C. § 214 (e)(5).  The Petitioners requested the ETC designation apply throughout each Petitioner’s respective Idaho study areas.  Given its recommendation that these Petitioners be designated as rural telephone companies, Staff concurred with the request for designation of each Petitioner’s entire Idaho study area, as identified in the Petitioner’s respective Certificate of Public Convenience and Necessity, as the service area for the ETC designation.  Staff Comments at 4.

Therefore, Staff recommended the Commission grant Century’s, Potlatch’s and Troy’s Petitions.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Each Petitioner is a telephone company subject to the Commission’s regulatory jurisdiction pursuant to Idaho Code Title 61 and Title 62.  Having fully reviewed the record in this matter, the Commission finds that each of the Petitioners meets both the federal and the state definition of a rural telephone company and, therefore, designates each Petitioner as a rural telephone company.  The Commission further finds that each Petitioner is offering those core services (with the exception of toll control) that are to be supported by the federal universal support mechanisms.  The Petitioners asserted and the Staff confirmed that the Petitioners are using their own facilities to offer such services.  The Commission further finds the Petitioners generally advertise the availability of such services and their rates using media of general distribution.  Consequently, the Petitioners are in compliance with the requirements of 47 U.S.C. § 214(e).  Therefore, the Commission grants each Petitioner ETC status.

The Petitioners, like all other carriers requesting ETC status in Idaho, have requested that the Commission grant them waivers of the requirement to offer toll control.  Given the FCC’s acknowledgment that many telecommunications carriers do not possess the technical ability to provide toll control services, the Commission finds there are exceptional circumstances that justify the granting of a waiver in this instance.  Accordingly, the Commission grants the Petitioners’ waiver request from the toll control requirement for a period of three years or until January 1, 2001.

In the joint Petition, the Petitioners requested that each of their respective Idaho study areas be designated as their ETC service area.  In its comments, the Staff noted that in the case of an area served by a rural telephone company, “service area” means “such company’s ‘study area’ unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.”  47 U.S.C. § 214 (e)(5).  Since the Commission has determined that each of the Petitioners is a rural telephone company, the Commission hereby designates each of their respective Idaho study areas as their ETC service area.

O R D E R

IT IS HEREBY ORDERED that Century Telephone of Idaho, Inc.’s, Potlatch Telephone Company’s and Troy Telephone Company’s (d.b.a. TDS Telecom) requests for designation as eligible telecommunications carriers are granted.  Century Telephone of Idaho, Inc., Potlatch Telephone Company and Troy Telephone Company (d.b.a. TDS Telecom) are hereby designated as ETCs effective January 1, 1998.

IT IS FURTHER ORDERED that Century Telephone of Idaho, Inc.’s, Potlatch Telephone Company’s and Troy Telephone Company’s (d.b.a. TDS Telecom)request for designation as rural telephone companies is granted.

IT IS FURTHER ORDERED that Century Telephone of Idaho, Inc.’s, Potlatch Telephone Company’s and Troy Telephone Company’s (d.b.a. TDS Telecom) requests for waivers from the requirement that each offer toll control services as a component of toll limitation services are granted for a period of three years or until January 1, 2001.

IT IS FURTHER ORDERED that Century Telephone of Idaho, Inc.’s, Potlatch Telephone Company’s and Troy Telephone Company’s (d.b.a. TDS Telecom) ETC service areas be designated, at this time, as each company’s study area.  The Commission specifically reserves the right to revisit the appropriate designation of service areas at such time as it takes up the designation of ETC support areas.

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 these Case Nos. CEN-T-97-1, POT-T-97-1, TRO-T-97-1 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 these Case Nos. CEN-T-97-1, POT-T-97-1, TRO-T-97-1.  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                  day of December 1997.

                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                       RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**FOOTNOTES**

1:

The FCC Lifeline program currently reduces charges for low-income consumers in those states participating in the program.  Link Up assists low-income subscribers to acquire new telephone service by paying half of the first $60.00 charge for the installation of service.  Idaho participates in both programs.

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

December 17, 1997