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IDAHO PUBLIC  
UTILITIES COMMISSION

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>TAMARACK VIDEO &amp; TELECOM LLC FOR A</b>	)	<b>TAM-T-05-1</b>
<b>CERTIFICATE OF PUBLIC CONVENIENCE</b>	)	
<b>AND NECESSITY TO PROVIDE FACILITIES-</b>	)	<b>PETITION FOR RECON-</b>
<b>BASED LOCAL EXCHANGE</b>	)	<b>SIDERATION OR, IN THE</b>
	)	<b>ALTERNATIVE, PETITION</b>
	)	<b>FOR ORDER REQUIRING</b>
	)	<b>PROVISION OF TELECO-</b>
	)	<b>MMUNICATIONS SERVICE.</b>
	)	
	)	
	)	

**INTRODUCTION**

COMES NOW, Petitioner Matthew Castrigno, and pursuant to Commission Rules of Procedure, IDAPA 31.01.01.321 and Idaho Code Sections 61-302, 501 and 508, for reconsideration of Order No. 29808, and an Order requiring Frontier Telephone Company (Frontier) to provide local exchange telecommunications services for those customers residing within that area known as the "Tamarack" resort development located in Valley County, Idaho, and for whom Tamarack Video & Telecom was given a certificate of public convenience and necessity to provide service pursuant to Order No. 29808.

## ARGUMENT

The Tamarack service area is already included within the service area dedicated to Frontier. Petitioner objected to the issuance of a certificate of public convenience and necessity to Tamarack for numerous, substantial reasons, including the fact that Tamarack does not provide what could reasonably be considered adequate telecommunications service. The service provided by Tamarack, is a bizarre, bundled arrangement requiring customers to purchase special telephones provided only by Tamarack at an exorbitant cost and, among other things, includes no 911 service. Tamarack's system is based on fiber optic and not copper cable and does not possess the functionality offered by the vast majority of telephone utilities.

The Commission based its final order in this case on the fact that Tamarack had provided the basic information requisite to obtaining a certificate, apparently without first considering whether Frontier, as the incumbent telecommunications carrier, had the obligation to provide service to the area as requested by Petitioner and other customers.

Petitioner is informed that Commission Staff is looking into this matter, including contacting Frontier about the possibility of that utility providing local service, and that it will require some time before all of the factual and legal issues can be sorted out. Petitioner recognizes that this matter will require time to analyze, but files this petition to avoid any contention that applicable deadlines have expired and to seek procedural and substantive guidance from the Commission.

Petitioner petitions the Commission for an Order that Frontier be ordered to provide basic local exchange service to the Tamarack customers. Indeed, Frontier's

obligation to do so is firmly founded upon statutory law. Idaho Code Section 61-302 provides:

61-302. MAINTENANCE OF ADEQUATE SERVICE. Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient,

Idaho Code Section 61-501 grants overarching authority to the Commission to do all things necessary to carry out the intent of the Public Utilities Act:

61-501. INVESTMENT OF AUTHORITY. The public utilities commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the provisions of this act.

Idaho Code Section 61-508 provides the Commission specific authority to require any extensions to a public utility's physical plant in order to provide adequate service to its customers. That statute provides, in part:

61-508. IMPROVEMENTS MAY BE ORDERED -- COST. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to or changes in the existing plant, scales, equipment, apparatus, facilities or other physical property of any public utility or of any two (2) or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing such additions, extensions, repairs, improvements, or changes be made or such structure or structures be erected in the manner and within the time specified in said order.

...

*Emphasis added.*

In addition to Petitioner's comments filed in this proceeding, the Commission has received ~~other~~ complaints and/or requests that Frontier, and not Tamarack, provide local

exchange service to the resort customers. Petitioner outlined numerous reasons for his desire to be served by Frontier.

Petitioner noted in his comments that Tamarack does not possess, among other things, the capability to provide 911 service to its customers. Also, Tamarack's system does not allow use of ordinary telephones; requiring customers to purchase an unusual Tamarack devised device. It is not clear what would occur if a customer's phone becomes disabled and Tamarack's phone company, which apparently consists of one individual, cannot replace that phone immediately. Frontier's system, by contrast, does not contain such flaws. Petitioner asserts that the public convenience and necessity requires these most basic of functions, be provided for the sake of public health and welfare. Given the fact that Tamarack is providing service in Frontier's area, Petitioner's concerns have become increasingly relevant.

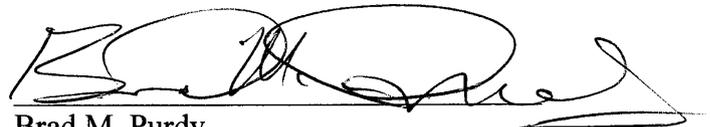
#### **SUMMARY**

Petitioner is hopeful that Staff's efforts ultimately yield results that are in the best interests of customers in the Tamarack area, and does not wish to undermine those efforts through the filing of this petition.

Petitioner files this petition for two primary reasons; that it is not deemed to have waived its rights to assert these issues pursuant to any applicable Commission procedural rules, and that the Commission take the issues raised by Petitioner into consideration as Staff works through the matter.

Petitioner respectfully requests that the Commission issue an order responding to this petition and setting forth a procedural outline and substantive guidance for responding to the issues raised herein.

RESPECTFULLY SUBMITTED, this 13<sup>th</sup> day of July, 2005.



Brad M. Purdy