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IDAHO PUBLIC  
UTILITIES COMMISSION

5/31/05

Matthew Castrigno  
3200 N Glen Stuart Lane  
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Jean D. Jewell  
Commission Secretary  
Idaho Public Utilities  
472 W. Washington Street  
Boise, ID 83702-5983

Re: Comments on and protest to, IPUC Case No. TAM-T-05-1

Dear Jean,

Please deliver these comments and protest to the Idaho Public Utilities Commission. They are in response to above referenced application and the "Notice of Modified Procedure Order No. 29783".

I herby protest to the "Modified Procedure" being used in processing this application and if the Commission does use the "Modified Procedure", that the comment period be extended to provide time to address certain issues to be detailed below. I also herby protest to the Idaho Public Utilities Commission granting the applicant a Title 62 license to provide phone service.

The "Modified Procedure" is not appropriate because there are issues of fact with respect to this application and a public hearing is needed so that the applicant can be questioned on certain questions of fact under oath.

The application asserts that there is a competitive carrier (Frontier Communications) in and the area they are currently serving without a license. I own a home in the Tamarack Resort where the applicant is currently providing service. I have made repeated attempts to secure telephone service from Frontier and each time have been told that I can not get service from them in the Resort. I have asked the applicant if there were any alternative providers of telephone service and they have indicated that there is not. I believe this issue is a legitimate question of fact that requires a response from the applicant under oath and where concerned parties can hear those answers.

Another question of fact is the assertion by the applicant that they are going to provide "Voice Over Internet Protocol" (VOIP). Current service offered by the applicant is not VIOP as defined by the FCC or as defined by the market place. To describe the service they offer as VIOP is false and deceptive. The applicant's existing facilities currently providing unlicensed phone service amount to a geographically dispersed PBX (private branch exchange) system. While the voice is packetized, and the bytes arranged in an IP format, the call never goes over the Internet. The FCC defines VOIP as a service provided on top of, or in addition to, an Internet connection. Not packetized voice over a private network, which is what the applicant has constructed at the resort. In fact the unlicensed phone service is offered as a standalone product – without an Internet connection. No Internet connection, no VOIP. Even when the phone service is bundled with Internet service the phone calls do not go over the Internet and hence is not VOIP. The marketplace defines VOIP service as a flat rate phone service that provides a large number or unlimited number of minutes of usage for entire US and sometimes Canada. The service provided by the applicant has toll charges to call most of Idaho and beyond. I believe this issue is a legitimate question of fact that requires a response from the applicant under oath and where concerned parties can hear those answers.

Another reason for a public hearing, and not the "Modified Procedure" is to have the applicant respond to the complaints that have been filed with the PUC about the applicants unlicensed (and subsequently illegal) phone service. The staff should share those complaints with the Commission in a public hearing and applicant should respond under oath.

If the Commission uses the "Modified Procedure" the comment period should be extended for two reasons. First, the application is incomplete. The notice and comment period has commenced with the application not being complete. Exhibits for the amended application are not on the web site and as of this writing. Only a draft form of the exhibits has been made available by chance two weeks into the comment period. Secondly, this application affects property owners in a resort many (if not most) of which live out of state. The normal notification process is unlikely to reach them. The property owners should be notified by mail, at the very least those persons who filed a complaint about the applicant's unlicensed phone service should be specifically notified.

The following are other comments that are independent of reasons to not use the "Modified Procedure" or to extend the comment period.

The amended application states in section II (3) that: "It has retained the services of experienced telecommunications personnel to manage its telecommunications system. Names and resumes for these individuals will be furnished to the Commission under separate cover." If this information is relevant to the application, then it should be made public and not "provided under separate cover".

I would like to ask the Commission as to why the applicant has been allowed to provide service without a license? The applicant has been allowed to collect revenue engaged in an illegal business. If the applicant had time constraints they could have not collected fees for the service until being legal. So not only have they not been fined they have collected money from the public.

As mentioned earlier the applicant's current facilities amount to a geographically dispersed PBX. As is typically with a PBX, the user must dial a nine to get an "outside line" which in this case is if phone call is placed to a phone outside of the resort. It appears that such a dialing plan does not support "911" calls. This seems to be a safety hazard especially since so many users will be coming from other areas were "911" is in use. The FCC has recently ruled that VOIP service provide "911". I would like the Commission to address this issue with the applicant and have the applicant provide answers under oath.

The status as a Title 62 telephone service provider for the applicant seems inappropriate if not illegal given the nature of the applicants outside plant. The company that has ownership of the applicant, Tamarack Resort LLC, has built a resort (service area) and telecommunications facilities that effectively makes it impossible for competition to exist. The covenants make it impossible to re-transmit radio signals for distribution without the applicant's owner's permission. The applicant's service area has no public roadways or public easements yet homes and home sites are sold to the public. Essentially the properties owned by the public are islands surrounded by a sea of property owned and controlled by the applicant's owner. The outside plant does not use traditional copper wires for phone service but rather multiplexes the signals onto fiber optic cables used for the delivery of other unregulated services provide by the applicant. The network termination unit on the homes is subsequently atypical as well as the central office equipment making it next to impossible for facilities to be shared. It appears that the applicant's ownership has created a environment with the deliberate intention of precluding the possibility of competition. Competition is the essential differentiator of a Title 62 provider.

The previously mentioned draft of the applicant's application exhibits shows a tariff for basic residential phone service of \$52.50/month yet the current phone service offered by the applicant cost \$75.00/month. I would like the Commission to ask the applicant to explain this situation. Another question about the current illegal phone service versus the service to be provided under the applied for license has to do with the actual phone (CPE). Currently, subscribers are required to use a proprietary phone provided by the applicant. (Should the applicant testify that this is an "IP" phone let me assure you that if you connect this phone to your Internet connection it will not work. It is meant to be used with phone manufacturers PBX.) The question that should be asked by the Commission is if the licensed service will require such a phone. This very important question because the current service requires subscribers to use a proprietary phone and pay an additional

monthly charge for each additional phone (not additional line) in the home. It is unclear if the licensed service will require a monthly charge for each phone in the home.

I would like to thank the Commission for taking the time to consider these comments. Should the Commission choose to have a public hearing I would appear at the Commission's request to answer any questions it may have regarding these comments and protest.

Respectfully submitted,



Matthew Castrigno

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Via US Mail