

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE AMENDED)	
APPLICATION OF TRACFONE)	CASE NO. TFW-T-09-01
WIRELESS, INC. FOR DESIGNATION AS)	
AN ELIGIBLE TELECOMMUNICATIONS)	
CARRIER)	ORDER NO. 32358
)	

INTRODUCTION

In October 2009, TracFone Wireless, Inc. ("TracFone" or "Company") filed its initial Application, pursuant to Section 214(e)(2) of the Communications Act of 1934, for designation as an "Eligible Telecommunications Carrier" (ETC) in Idaho. *Application* at 1. On February 5, 2010, the Commission issued an Order denying TracFone's Application because, *inter alia*, TracFone failed "to comply with the minimal filing requirements of the Idaho Office of the Secretary of State" which suggested that the Company had a "limited and tangential commitment to consumer service. . . ." *See* Order No. 30996 at 3.

On March 1, 2010, TracFone filed an Amended Application under Section 214(e)(2) of the Communications Act seeking designation as an ETC. Following protracted prehearing procedures and discovery, the Commission held a technical hearing on March 31, 2011.

On May 14, 2010, CTC Telecom, Inc. dba Snake River PCS ("CTC") and Idaho Telecom Alliance ("ITA") each filed Motions to Intervene, pursuant to Commission Rule of Procedure 71, IDAPA 31.01.01.071. TracFone opposed intervention and on May 28, 2010, the Commission granted CTC and ITA's Petitions to Intervene. Order No. 31096.

The parties convened a scheduling conference and on November 24, 2010, the Commission ordered the parties to submit prehearing briefs. The Commission directed the parties to outline the legal and factual issues involved in the case and file their briefs no later than December 17, 2010. *See* Order No. 32127. On March 31, 2011, the Commission convened a technical hearing where all the parties participated.

On April 21, 2011, the Commission issued Order No. 32231 outlining a post-hearing briefing schedule and expressly limiting the scope of the parties' legal briefs to whether TracFone is legally obligated to remit certain fees pursuant to the Idaho Emergency Communications Act (IECA) or the Idaho Telecommunications Service Assistance Program

(ITSAP). Thereafter, the Commission received post-hearing briefs from the Company, ITA, CTC and Commission Staff.

On July 29, 2011, the Commission issued Order No. 32301 denying TracFone's request for ETC status, finding that the Company's refusal to pay the statutory 911 and telephone assistance fees conflicted with the "public interest." On August 19, 2011, TracFone filed a timely Petition for Reconsideration. Reconsideration was opposed by ITA and CTC. Based upon our review of the record, we affirm our findings in our prior Order No. 32301 and deny TracFone's Amended Application for designation as an ETC in Idaho.

TRACFONE'S AMENDED APPLICATION

In its Amended Application, TracFone states that it provides service through a virtual network consisting of services obtained from numerous licensed operators of wireless networks and has provided CMRS service throughout the State of Idaho for the past ten years. *Id.* at 4. In Idaho, TracFone obtains service from several underlying carriers enabling the Company to offer services wherever these providers offer service. *Id.* TracFone offers its Lifeline service in all areas of Idaho currently being served by AT&T Mobility, T-Mobile and Verizon Wireless. *Id.* at 17-18.

TracFone's Lifeline program can be differentiated from other ETCs' Lifeline programs in the following ways: (1) TracFone will offer low-income consumers the convenience and portability of wireless services; (2) many of its Lifeline-eligible consumers will be able to obtain subsidized wireless service; and (3) TracFone will not charge consumers for certain quantities of its Lifeline service. *Id.* TracFone will provide a free wireless handset to its Lifeline customers. *Id.* at 5. These customers will not incur any activation or usage charges. *Id.*

On April 9, 2008, the Federal Communications Commission (FCC) granted all of TracFone's pending petitions for designation as an ETC, subject to certain conditions. *Id.* at 6, 9. The FCC's decision allows the Commission to consider TracFone's Application seeking ETC designation in Idaho under Section 214(e)(2) of the federal Communications Act. *Id.* at 7-8.

TracFone has been granted ETC designation in the following states: Florida, Georgia, Illinois, Louisiana, Maine, Maryland, Michigan, Missouri, New Jersey, Ohio, Texas, West Virginia and Wisconsin. *Id.* at 8, fn. 12.

TracFone states that it is seeking ETC designation solely to obtain USF funding to provide Lifeline service to qualified low-income consumers and will not seek or accept high-cost

support. *Id.* at 18. The Company believes that granting ETC status will benefit low-income consumers, low volume users, transient users and other types of consumers in Idaho “who either choose not to enter into long-term service commitments or who are unable to meet the credit requirements necessary to obtain service from other wireline or wireless carriers.” *Id.* at 28. TracFone states that it will provide access to emergency services and that its customers will receive an E911-compliant handset free of charge. *Id.* at 24.

FINAL ORDER NO. 32301

In its final Order No. 32301 issued July 29, 2011, the Commission found that TracFone had failed to demonstrate that granting the Company ETC designation in Idaho would be in the “public interest.” Order No. 32301 at 4. Although the parties addressed numerous issues regarding TracFone’s ETC Application, the Commission found that the “primary issue” was whether TracFone is legally obligated to pay the 911 fees under the Idaho Emergency Communications Act and the Idaho Telephone Service Assistance Program Act. *Idaho Code* §§ 31-4801 *et seq.* and 56-901 *et seq.*

The IECA was intended to help finance the 911 emergency communication systems in Idaho by the collection of an emergency communications fee not to exceed \$1.00 per month per access line. *Idaho Code* §§ 31-4801; 31-4802(5); 31-4804(1-3). “Access line” is defined in the case of the wireless technology as “each active dedicated telephone number shall be considered a single access line.” *Idaho Code* § 31-4802(1). When a 911 service area is created, then *Idaho Code* § 31-4804(2) provides that the 911 fee “shall be collected from customers on a monthly basis by all telecommunications providers that make available access lines to persons within the county, or 911 service area,” (Emphasis added.)

ITSAP is “administered by the department of health and welfare” and seeks to “maximize federal ‘lifeline’ and ‘link-up’ contributions to Idaho’s low-income customers.” *Idaho Code* § 56-901(1). The legislation empowers the Idaho Public Utilities Commission to “determine and impose a uniform statewide monthly surcharge on each end user’s business, residential and wireless access service.” *Idaho Code* § 56-904(1). ITSAP mandates that telecommunications carriers “remit the assistance surcharge revenues to the fund administrator [, either the Commission or a neutral third party selected by the Commission,] designated by the commission on a monthly basis, unless less frequent remittances are authorized by order of the public utilities commission.” *Idaho Code* § 56-904(2-3).

The statute defines a “telecommunications carrier” as any “telephone corporation providing telecommunication services for compensation in this state, and shall include . . . personal communications services and mobile radio services for compensation.” *Idaho Code* § 56-901(2). Recipients of ITSAP funding must “meet narrowly targeted eligibility criteria based solely on income or factors directly related to income established by the department of health and welfare.” *Idaho Code* § 56-901(3).

Thus, the Commission found that TracFone was required to collect both the 911 fee and the ITSAP fee. The Commission stated in its final Order No. 32301 that the

plain and unambiguous language of [the IECA and ITSAP] laws requires all telecommunications carriers – including prepaid wireless carriers – to remit fees established under those statutes. *See Idaho Code* § 56-901(2). “The language of a statute is to be given its plain, rational and obvious meaning.” *State v. Burnright*, 132 Idaho 654, 659, 978 P.2d 214, 219 (Idaho 1999). TracFone will not be allowed to escape the duty to remit the surcharges simply because it chooses not to bill its customers on a monthly basis.

Indeed, ITSAP provides the Commission with the discretion to authorize “less frequent remittances” than monthly remittances. *See Idaho Code* § 56-904(3). In its filings, TracFone has not sought Commission authorization for a less frequent remittance, choosing instead to argue that the fees are wholly inapplicable.

TracFone clearly falls within the definition of “telecommunications provider” found in the IECA. *Idaho Code* § 31-4802(13). The intent and purpose of the IECA is to “provide authority to counties and 911 service areas to impose an emergency communications fee on the use of telephone lines, wireless, VoIP or other communications services that connect an individual dialing 911 to an established public safety answering point.” *Idaho Code* § 31-4801(2)(a). The 911 fee is “imposed upon and collected from purchasers of access lines.” *Idaho Code* § 31-4804(2). “In the case of wireless technology, each active dedicated telephone number shall be considered a single access line.” *Idaho Code* § 31-4802(1).

The only specific exemption granted by the Idaho Legislature in the IECA pertains to prepaid calling cards. *Idaho Code* § 31-4813. “Prepaid wireline, wireless and VoIP phones with a service address or place of primary use within Idaho are not considered prepaid calling cards.” *Id.* Thus, the Legislature clearly did not create an exemption for prepaid wireless providers like TracFone.

Order No. 32301 at 6 (emphasis added).

PETITION FOR RECONSIDERATION

A. TracFone's Petition

On August 19, 2011, TracFone filed a Petition for Reconsideration challenging several of the Commission's findings and conclusions in final Order No. 32301. TracFone states that "reconsideration of the Order is compelled because the Order misapplies applicable law; is not supported by the record; and because the result therein would not serve the public interest." *Petition for Reconsideration* at 1. TracFone argued that the Commission's decision is "legally erroneous and warrants reconsideration. . . ." *Id.* at 5. TracFone "requests the Commission to grant reconsideration of its Order, and promptly approve TracFone's amended ETC Application. . . ." *Id.* at 21.

B. Intervenor's Joint Opposition

On August 26, 2011, ITA and CTC filed a joint answer to TracFone's Petition for Reconsideration. They asserted that TracFone's Petition offered no new legal argument for the Commission to reconsider. *Intervenors' Opposition* at 2, 4. The Intervenors allege that the Petition amounts to nothing more than an expression of TracFone's "disappointment in the decision" rendered by the Commission. *Id.* at 2. Any new factual evidence introduced by TracFone for the first time in the Petition is not part of the official record and should be disregarded. *Id.* at 3.

ISSUES FOR RECONSIDERATION

A. Legal and Procedural Standards for Reconsideration

Reconsideration provides an opportunity for a party to bring to the Commission's attention any question previously determined and thereby affords the Commission with an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979). The Commission may grant reconsideration by reviewing the existing record, by written briefs, or by evidentiary hearing. IDAPA 31.01.01.311.03.

If reconsideration is granted, "the matter must be reheard, or written briefs, comments or interrogatories must be filed, within thirteen (13) weeks after the date for filing petitions for reconsideration." *Idaho Code* § 61-626(2). "The commission must issue its order upon reconsideration within twenty-eight (28) days after the matter is finally submitted for reconsideration." *Id.* Commission Rule 311 "determines when a matter that is reconsidered is

finally submitted for purposes of Section 61-626. . . .” IDAPA 31.01.01.332. A matter is deemed “submitted for decision . . . no later than twenty-eight (28) days after hearing is closed when a hearing is held. . . .” IDAPA 31.01.01.311.

The Idaho Legislature has delegated to the Commission the authority to administer the Telecommunications Act of 1988, as amended (“the Idaho Act”), and applicable federal law. *Idaho Code* § 62-602(5). The Commission “has full jurisdiction and authority to designate carriers as ETCs pursuant to the federal Telecommunications Act of 1996. . . .” Order No. 29841 at 2. In order to be designated an ETC, the telecommunications provider must: (1) be a “common carrier” as defined by 47 U.S.C. § 153(10); (2) offer throughout its proposed service areas the universal services¹ set forth in 47 C.F.R. § 54.101(a) either by using its own facilities or a combination of its own facilities and the resale of another carrier’s services;² and (3) must advertise the availability of its universal service offering and the charges therefore using media of general distribution. *Id.* at 3; *see also* 47 U.S.C. § 214(e)(1).

Additionally, in areas already served by a rural telephone company, TracFone has the burden of demonstrating that the public interest would be served by granting its ETC Application. Order No. 29841 at 8; *see also* 47 U.S.C. § 214(e)(2). “Merely asserting that granting the application will lead to increased competition in a particular service area is not enough, by itself, to warrant ETC designation in rural areas.” Order No. 30867 at 3; *see also* Order No. 29841 at 4.

B. IECA and ITSAP Fees

In its Petition, TracFone reiterates its claims that the ITSAP and IECA fees do not apply to the Company. *TracFone Petition* at 7-11. Specifically, the Company believes that it is not required to remit the ITSAP and IECA fees because it does not collect “surcharge revenues” from end users through a traditional monthly “billing process.” *Id.*

TracFone disputes the significance of the written comments submitted by the chairman of the Emergency Communications Commission (IECC) that TracFone must collect

¹ The enumerated services include: (1) voice grade access to the public switched network; (2) local calling; (3) touch tone signaling or its functional equivalent; (4) single-party service or its functional equivalent; (5) access to 911 emergency services where available; (6) access to operator services; (7) access to long-distance service; (8) access to directory services; and (9) toll limitation service. 47 C.F.R. § 54.101(a).

² TracFone was granted a forbearance of the “facilities requirement.” *See* FCC 05-165, *In the Matter of Federal-State Joint Board on Universal Service Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, Docket No. 96-45, September 8, 2005.

the 911 fees from its customers. The Company claims this Commission improperly relied on the letter submitted by the IECC Chairman because the IECC did not intervene in this proceeding and thus TracFone was not afforded an opportunity to cross-examine the agency “to learn the basis for the IECC’s position or to cross-examine the IECC. . . .” *Id.* at 11-12. TracFone suggests that the IECC letter was improperly procured by a Commission Staff member. *Id.* at 12. Further, the Company stated that the IECC Chairman’s conclusion that the IECA fees are applicable to TracFone is not supported by appropriate legal authority and “does not indicate that the IECC has made any attempt to enforce the statute against TracFone.” *Id.*

TracFone also argues that the Commission’s directive that the Company assent to the payment of the ITSAP and IECA fees “denies TracFone its legal right to receive a legal determination on the applicability of the fees.” *Id.* at 17-18. “[T]he Commission has never attempted to enforce the ITSAP surcharge statute against TracFone.” *Id.* at 18. The Company suggests that the Commission itself may not be convinced that the surcharge applies to TracFone. *Id.* TracFone reasons that the term “voluntarily” in the Order “recognizes that there is no legal obligation to pay.” *Id.* Because there has been no “determination by this Commission, the IECC, or a state court that TracFone is legally required to commence collecting and remitting the ITSAP surcharge and 911 fee[,] . . . the Commission may not lawfully rely on TracFone’s non-payment of those fees to deny the ETC Application.” *Id.* at 19.

Commission Findings: The issue of the applicability of the IECA and ITSAP fees has been subjected to substantial argument and briefing in this case. The Commission has dutifully reviewed the well-considered positions of the parties. Nevertheless, we are not persuaded that TracFone’s Petition compels us to deviate from our previous finding that the Company’s willful non-payment of the IECA and ITSAP fees is contrary to the public interest.³

TracFone has elected to pursue a business model that makes the collection of the fees more challenging than a more typical telecommunications provider that distributes its services directly to individual consumers on a monthly basis. We find that TracFone’s selection of a

³ Traditionally, the FCC permits state commissions to decide whether an ETC application is “‘consistent with the public interest, convenience, and necessity’ and when designating an ETC in a rural telephone company service area is ‘in the public interest.’” Order No. 29841 at 3. “This has allowed state commissions to consider local factors and develop state-specific policies regarding universal service support.” *Id.* “In evaluating the public interest issue, the Commission weighs whether the potential benefits of ETC designation outweigh the potential harms.” Order No. 30629 at 8.

business model does not render the relevant statutes inapplicable. The ITSAP statute is unambiguous. It grants jurisdiction to the Commission to administer ITSAP and issues the following mandate to telecommunications carriers like TracFone:

All carriers of telecommunications services shall remit the assistance surcharge revenues to the fund administrator designated by the commission on a monthly basis, unless less frequent remittances are authorized by order of the public utilities commission.

See Idaho Code § 56-904(3).

The IECA statute is equally clear in scope and application. We affirm our previous finding that TracFone clearly falls within the definition of ‘telecommunications provider’ found in the IECA. *See Order No. 32301 at 6 (citing Idaho Code § 31-4802(13)).* The IECA “impose[s] an emergency communications fee on the use of telephone lines, wireless, VoIP or other communications services that connect an individual dialing 911 to an established public safety answering point.” *Id. (quoting Idaho Code § 31-4801(2)(a)).* The 911 fee is “imposed upon and collected from purchasers of access lines.” *Id. (quoting Idaho Code §§ 31-4804(2)).* “In the case of wireless technology, each active dedicated telephone number shall be considered a single access line.” *Id. (quoting Idaho Code § 31-4802(1)).*

The only specific exemption granted by the Idaho Legislature in the IECA pertains to prepaid calling cards. *Id. (citing Idaho Code § 31-4813).* “Prepaid wireline, wireless and VoIP phones with a service address or place of primary use within Idaho are not considered prepaid calling cards.” *Id. (quoting Idaho Code § 31-4813).*

TracFone has not even availed itself of the opportunity to obtain a legal determination from the IECC regarding the applicability of the IECA fee. Indeed, IECC Chairman Nancolas declared that TracFone has not made any attempt to “negotiate a process for collecting the Emergency Communications Fee with the IECC or any of the local governments that collect the fee.” Tr. Exhibit 102. If TracFone disputes the IECC’s clear statement regarding the applicability of the IECA fee then it is free to challenge that finding before the IECC or another appropriate legal venue.

In the instant case, “[a]ll parties had an opportunity to submit comments, reply to comments, and assert and defend a position at oral argument.” Order No. 32212 at 11. The Commission has been accommodating of TracFone’s request for ETC status and afforded the Company the requisite amount of due process. “Sufficient notice of exactly what the

Commission was considering was provided to allow all interested parties an opportunity to participate.” *Id.* IECC Chairman Nancolas’ public comments were clear and received by this Commission in accordance with the Commission’s well-established procedures soliciting comments from interested parties and within the defined comment period outlined in Order No. 31082. In his role as the Chairman of the IECC, the state agency charged with the administration of the emergency 911 communication system in Idaho, *See* Tr. Exh. 102, he urged the Commission to “deny the Application before them” and conveyed the IECC’s official position that TracFone’s failure to remit payment of IECA fees constitutes a “violation of the Idaho Emergency Communications Act, Idaho Code Section 31-4801. . . .” Order No 32301 at 7 (*quoting* Tr. at 104, ll.19-21).

We decline TracFone’s invitation to disregard the Chairman’s highly pertinent public comments simply because TracFone objects to the conclusions contained therein. We deny reconsideration on this issue and find that the Commission’s prior rulings, that TracFone is required to pay the ITSAP and IECA fees and that non-payment of those fees is contrary to the public interest, are supported by substantial evidence.

C. 47 U.S.C. § 214(e)(1) and Commission Order No. 29841

TracFone next argued that the Commission failed to “offer any explanation as to why TracFone does not meet any Section 214(e)(1) ETC designation requirement.” *TracFone Petition* at 5. The Company stated that the Commission’s final Order did not cite to any evidence in the record to support this finding. *Id.*

Commission Findings: The Commission’s review of an application for ETC designation does not begin and end with the technical requirements found in Section 214(e)(1). The Commission must go further and ascertain whether the applicant’s submission comports with the public interest. In this case, the Commission held that the “public interest” issue was dispositive of TracFone’s Amended Application. *See* Order No. 32301 at 4. Thus, once the Commission finds that an application for designation as an ETC does not comply with the public interest, we need not analyze the specific requirements in Section 214(e)(1).

Additionally, we note that TracFone has omitted a portion of the original language included in Order No. 32301. On page 4 of Order No. 32301, the Commission stated that TracFone “failed to meet the minimum requirements for designation as an ETC in Idaho outlined in 47 U.S.C. § 214(e)(1) **and** Commission Order No. 29841.” (Emphasis added). TracFone’s

omission is particularly relevant since Order No. 29841 interprets the Commission's duties and obligations regarding the application of the federal statute and the public interest analysis that must be undertaken prior to ETC designation.

The Commission reaffirms our prior ruling that granting TracFone's Amended Application would not be in the public interest and therefore denies reconsideration on that issue.

D. Decisions by Other State Commissions

TracFone believes that adverse rulings made by other State Commissions are not relevant to this proceeding. *TracFone Petition* at 14-17. The Company believes that the Commission should not support its decisions with citations to other State regulatory proceedings because "states' laws regarding the collection and remittance of fees differ from each other." *Id.* at 15. TracFone believes that "its right to challenge the applicability of certain fees in other states provides no basis for denying TracFone's ETC Application in Idaho. . . ." *Id.* TracFone also suggests that the Commission should address the ITSAP fee issue in a separate proceeding" and defer to "the IECC the responsibility to determine whether the law governing the 911 fee is applicable. . . ." *Id.* at 16.

Commission Findings: The Commission finds that court decisions and rulings handed down by other state regulatory commissions, while not controlling, are certainly relevant. The Commission routinely relies upon decisions made by other tribunals to inform our reasoning by offering relevant factual and legal background. The decisions of the various State Commissions and courts we cited in final Order No. 32301 fall squarely within this rubric because they pertained to TracFone's ETC filings made in other states.

The Commission is unpersuaded by TracFone's inference in its Petition that state telecommunications statutes contain distinct and varied requirements. *See Id.* at 15. While state telecommunications laws, like the IECA and ITSAP statutes at issue in this case, are often modeled after laws in other states and/or a federal counterpart, the Commission's decision in this case did not hinge upon whether the IECA and ITSAP mirrored analogous laws in other states. Simply put, the Commission found that the Idaho statutes applied to the Company and TracFone's persistent refusal to remit the IECA and ITSAP fees provided "sufficient cause to deny TracFone's Application." Order No. 32301 at 9.

E. Benefit to Low-Income Households

Finally, TracFone asserts that denying its Application will be a “disservice” to low-income Idaho households. *TracFone Petition* at 19. The Company states that it offers Lifeline services (E-911 compliant wireless handset, 250 minutes of free wireless airtime, nationwide calling, call waiting, caller ID, voice mail, etc.) that are unique to Idaho. *Id.* at 19-20. TracFone believes its services are needed due to Idaho’s 22.1 percent Lifeline participation rate. *Id.* at 20 (Note: web link citation provided in the Petition does not work). TracFone states that it has “significantly raised the level of Lifeline participation in every state where the service is available.” *Id.* at 20-21.

Commission Findings: The Commission is encouraged by TracFone’s declarations regarding the importance of protecting the public interest in this case. As we noted in our previous Order and the Company has repeatedly stated during the course of these proceedings, “TracFone has been operating in Idaho for more than 12 years.” Order No. 32301 at 7. Presumably, during that time Idaho consumers have derived at least some measure of benefit from TracFone’s various service offerings. However, that is a separate and distinct issue from whether TracFone’s designation as an ETC in Idaho furthers the public interest in Idaho.

TracFone’s purported aim of increasing the LifeLine participation rate for Idaho households, however laudable, must be weighed against the Company’s persistent refusal to contribute to programs that directly benefit many of those same households.⁴ The Commission cannot focus solely on one aspect of TracFone’s Application. We must assess the practical consequences and surrounding context. Thus, while the importance of the federal Lifeline Program is indisputable, it is no more or less important than IECA and ITSAP.

CONCLUSION

Therefore, after a careful review of the record and based upon the foregoing analysis, the Commission reaffirms our prior Order No. 32301 denying TracFone’s Amended Application for designation as an ETC in Idaho. After careful consideration of the record, the Commission finds that our decision to deny reconsideration is based upon substantial evidence and fair, just and reasonable. Absent the Company’s assent to remit the applicable fees, or seek an official

⁴ “In evaluating the public interest issue, the Commission weighs whether the potential benefits of ETC designation outweigh the potential harms.” Order No. 32301 at 8 (*quoting* Order No. 30629 at 8).

ruling from the IECC, or another tribunal with relevant jurisdiction, as to whether the fees applied, the designation of TracFone as an ETC in Idaho would not be in the public interest.

ORDER

IT IS HEREBY ORDERED that TracFone Wireless' Petition for Reconsideration is denied.

THIS IS A FINAL ORDER DENYING RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in Case No. TFW-T-09-01 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

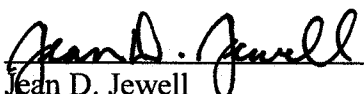
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 19th day of September 2011.


PAUL KJELLANDER, PRESIDENT


MACK A. REDFORD, COMMISSIONER


MARSHA H. SMITH, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

O:TFW-T-09-01_np9_Reconsideration