

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE ISSUANCE OF A)
PROCEDURAL ORDER TO FACILITATE THE) CASE NO. GNR-T-01-10
REVIEW OF APPLICATIONS TO DETERMINE)
WHETHER BROADBAND EQUIPMENT MEETS)
THE ELIGIBILITY REQUIREMENTS FOR) ORDER NO. 28784
INVESTMENT TAX CREDITS.)
_____)**

Earlier this year the Legislature enacted and the Governor signed House Bill 377 authorizing income tax credits 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 between January 1, 2001 and December 31, 2005.

“Qualified broadband equipment” is defined as those network facilities capable of transmitting signals that are 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). To be eligible for the tax credit, the taxpayer must apply and obtain “from the Idaho public utilities commission an order confirming that installed equipment is qualified broadband equipment.” *Idaho Code* § 63-3029I(4). This section also provides that the Commission “may issue procedural orders necessary to implement this section.” *Id.*

PROCEDURAL HISTORY

On June 14, 2001, the Commission issued a Proposed Order to implement its responsibilities under the broadband tax credit statute. IDAPA 31.01.01.312. The Proposed Order identified information that should be contained in an application to determine whether the installed equipment is “qualified” broadband equipment. Persons interested in commenting on the Proposed Order were invited to submit written comments no later than July 5, 2001. The Commission received two comments.¹

¹ On June 28, 2001, Avista Communications petitioned to intervene in this matter. Although it filed no comments, Avista’s Petition was granted in a separate Order.

THE COMMENTS

Verizon Northwest and Qwest Corporation each filed brief comments. In its comments, Verizon “applaud[ed] the Commission’s efforts to implement House Bill 377 and believes that this should help to speed deployment of broadband infrastructure in Idaho.” Verizon recommended that information filed in response to paragraph Nos. 7 and 8 be considered as confidential information. Items 7 and 8 provide:

7. Provide a written description (including basic schematics or general drawings) of the relevant broadband network including a description of how the installed equipment is “an integral part” of a broadband network.
8. Quantify the percentage and number of potential Idaho subscribers that could be served with the broadband equipment and the percentage and number of non-Idaho subscribers that will be/could be served by the broadband network.

Proposed Order at 2.

In its comments, Qwest agreed that “the information described in the Proposed Order is appropriate for determination of whether equipment is qualified broadband equipment.” Qwest Comments at 1. In particular, Qwest agreed with Item No. 4 in the Proposed Order which requires an application to state the transmission rate of the broadband network. The Company stated that its understanding of the phrase “qualified broadband equipment” includes

items that are necessary and integral for the broadband network to operate, but which are not part of the actual transmission of the signal. Thus, Qwest agrees that an application should set out the transmission rate for the network, and that the transmission rate does not apply to specific items of equipment.

Qwest Comments at 2 (emphasis added).

DISCUSSION

To implement our responsibilities under the broadband tax credit, the Commission finds that it is appropriate to issue a procedural order regarding broadband equipment applications. Both comments supported adoption of a procedural order. Turning to Verizon’s comments, we believe the Commission’s existing Rules of Procedure provide appropriate protection for trade secret information contained in materials submitted to the Commission. *See* Rule 67.03, IDAPA 31.01.01.067.03. As for Qwest’s comments, the Commission amends Item

No. 4 to reflect that it is the network of broadband equipment that must satisfy the transmission rates set out in *Idaho Code* § 63-3029I(3)(b).

Applicants shall submit the following information in applications when seeking an Order whether installed equipment is “qualified” broadband equipment.

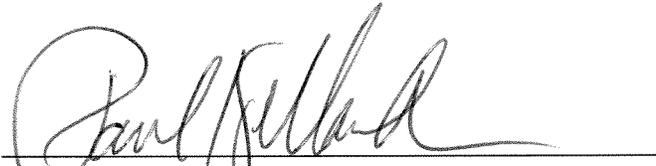
1. Name and address of applicant including the contact person in the event there are questions regarding the application and its content. Indicate whether the applicant is a telecommunications carrier, a commercial mobile service carrier, a cable or open video operator, a satellite carrier, or other type of wireless carrier.
2. Identify the area or location where the equipment is installed in Idaho.
3. Describe the type of broadband service(s) offered to the public in Idaho.
4. State the network transmission rate in bits per second at which subscribers to the relevant broadband network can receive and send (download and upload).
5. Provide a specific list of the equipment or types of equipment that the applicant is requesting that the Commission determine is “qualified broadband equipment” as defined in *Idaho Code* § 63-3029I(3)(b). List the brand, manufacturer, model numbers, or other distinguishing features of the installed equipment.
6. Provide the date(s) or time period(s) when the broadband equipment was installed in Idaho.
7. Provide a written description (including basic schematics or general drawings) of the relevant broadband network including a description of how the installed equipment is “an integral part” of a broadband network.
8. Quantify the percentage and number of potential Idaho subscribers that could be served with the broadband equipment and the percentage and number of non-Idaho subscribers that will be/could be served by the broadband network.
9. Enclose a statement certifying that the applicant has read the applicable statutes for broadband investment income tax credit and the applicant believes that the subject broadband equipment qualifies for the tax credit under *Idaho Code* § 63-3029I.

ORDER

IT IS HEREBY ORDERED that taxpayers submitting applications for the Commission to determine whether installed broadband equipment is eligible for the Idaho state tax credit must include the information set out in the body of this Order.

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 this Case No. GNR-T-01-10 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 this Case No. GNR-T-01-10. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 11th day of July 2001.



PAUL KJELLANDER, PRESIDENT

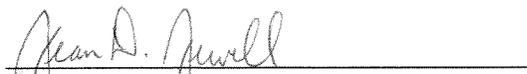


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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