BRAD PURDY

DEPUTY ATTORNEY GENERAL

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0357

Street Address for Express Mail:

472 W WASHINGTON

BOISE ID  83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|  |  |  |
| --- | --- | --- |
| INTHE MATTER OF THE PETITION OF CERTIFICATED SERVICE AREA BOUNDARIES CONCERNING THE ALMO EXCHANGE BY ALBION TELEPHONE COMPANY. | )  )  )  )  )  )  ) | CASE NO. ALB-T-98-1  COMMENTS OF THE  COMMISSION STAFF |

COMES  NOW  the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Brad Purdy, Deputy Attorney General, and submits the following comments in response to the Petition filed in this case by Albion Telephone Company, Inc. (Albion; Company) and pursuant to the Notice of Modified Procedure issued by the Commission on

June 3, 1998.

On April 23, 1998, the Commission received a Petition from Albion for an Order approving the amendment of Albion’s certificated service area boundaries that would add approximately eleven square miles to the Almo exchange.  The additional area requested includes the City of Rocks National Monument (also referred to herein as the “City of Rocks” area).  A request by the Superintendent of the City of Rocks for payphones at the site prompted Albion to make this request.  Albion anticipates additional requests for telephone service by other private parties in this area in the future.

Albion claims the area is currently uncertificated and unserved and that no other telephone company has facilities near the area.  Albion further claims that with the exception of the normal costs of extending service to this area, it will not be required to construct or expand any facilities and that it will not require financing for construction or facilities.

Albion also requests that the Commission confirm “Albion’s status as an eligible telecommunications carrier for the Almo exchange.”  This Commission designated Albion as a rural telephone company and an eligible telecommunications carrier (ETC) for the purposes of receiving universal service support in Order No. 27255.

STAFF ANALYSIS

Staff reviewed the information provided by Albion and confirmed that the area in question is not part of the certificated area of any other telecommunications provider.  The area in question is directly adjacent to the Almo exchange.  Although the City of Rocks may lie closer to the boundary of the Oakley exchange, which is served by Project Mutual, the physical terrain would make it difficult for Project Mutual to extend service to this area.  Mr. Creason, the Manager of Project Mutual, informed Staff that he was aware of Albion’s intent to serve this area.  He indicated that because of the physical terrain, it was more logical that service come from the Almo Exchange than from the Oakley exchange and that he did not oppose Albion’s request.

For purposes of Universal Service Fund (USF) eligibility, the Federal Telecommunications Act of 1996, 47 U.S.C. §§151 et seq. (the “Act”), requires that state regulatory commissions establish “service areas” for rural telephone companies that are identical to “study areas” which are established by the FCC.  Section 214(e)(5) of the Act states:

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 recommendation of a Federal-State Joint Board

instituted under section 410(c), establish a different definition

of service area for such company.

If Albion’s USF service area is to be the same as the study area, then the FCC must change the Company’s study area before this Commission can change its service area.  The FCC currently has a “freeze” on study area amendments, but has established three criteria for granting waivers to this freeze.

“first, that the change in study area boundaries does not adversely affect the Universal Service Fund ("USF) support program; second, that the state commission(s) having regulatory authority does not object to the change in study area boundaries; and third, that the public interest supports the change in study area boundaries.”

(FCC Docket No. DA 95-1403, Order No. AAD No. 95-78)

If this Commission supports Albion’s request to add the City of Rocks to its study area, it would appear to meet all three of the foregoing criteria, and Staff expects such a request of the FCC to be successful.  If the FCC adds the City of Rocks to the Company’s study area, and the Company offers the full range of services required of an ETC to the new area, as Albion has indicated it will do, then in accordance with Section 214(e)(5), Staff believes that this Commission should add the new area to the Company’s “service area” for universal service support.

STAFF RECOMMENDATION

Based upon the information presented in the Petition and the comments of Mr. Creason, Staff believes that Albion is the most logical company to provide basic telephone service to the City of Rocks area.  Service from Albion is likely to be the most economical option for the customers, and Albion is capable of providing the full range of services currently required of an Eligible Telecommunications Carrier.  Therefore, Staff recommends the Commission approve Albion’s request and amend its Certificate to include the requested new territory.Staff recommends that the Commission offer its support in its final Order in this case to Albion’s request to add the City of Rocks to its study area.  Staff also recommends that contingent upon the FCC amending the Company’s study area to include the new area, the Commission approve the Company’s request to include the City of Rocks area in the Company’s service area for universal service support.

Respectfully submitted this                  day of June 1998.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Brad Purdy

Deputy Attorney General

Technical Staff:  Wayne Hart

BP:wh/gdk/umisc\comments\albt981.bpw