DECISION MEMORANDUM

TO:COMMISSIONER NELSON

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COMMISSIONER HANSEN

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WORKING FILE

FROM:WELDON STUTZMAN

DATE:JULY 22, 1996

RE:CASE NO. ATT-T-96-1

ADDITIONAL COMMENTS REGARDING AT&T’S APPLICATION TO AMEND ITS CERTIFICATE TO PROVIDE LOCAL EXCHANGE SERVICES

On February 29, 1996, AT&T Communications of the Mountain States, Inc. (AT&T) filed a Notice and Application for Amended Certificate of Public Convenience and Necessity requesting that its certificate be amended to authorize local exchange service in the state of Idaho.  On March 29, 1996, the Commission issued a Notice of Application, and on May 15, 1996 issued a Notice of Modified Procedure.  The Notice of Modified Procedure provided a written comment period that expired on June 14, 1996.  Comments were filed by a group of small independent telephone companies (Telcos), U S WEST, GTE, Commission Staff and a private individual.  The Commission on June 28, 1996, issued Order No. 26506 directing AT&T to respond in writing to the comments filed during the comment period.  On July 12, 1996, AT&T filed responsive comments, and also filed a supplement to its application to provide specific information requested by Staff.

In its reply comments, AT&T addressed specific issues raised in the previously filed comments of U S WEST, GTE, and the Telcos.  Regarding U S WEST’s comments, AT&T noted that the certification process is not the appropriate venue to address many concerns regarding the federal Telecommunications Act of 1996. AT&T asserts the certification process addresses only three narrow questions: (a) Is certification in the public interest?, (b) Does the Company have the technical and financial wherewithal to accomplish the expansion?, and (c) How will the expansion be accomplished?  Regarding many of the details of its expansion into the local market, AT&T stated that the federal Act requires many of the issues to be resolved through negotiation with incumbent LECs, and then by mediation and arbitration if negotiation proves unsuccessful.  Thus, it is not possible to provide many of the details until that process is completed.  AT&T asserted that it will comply with all applicable state and federal statutes and regulations relating to the provision of telecommunication services to consumers in Idaho.  AT&T also pointed out that many of the additional detailed information U S WEST claimed AT&T should provide is contained in AT&T’s supplement to its Application.  AT&T asserted that more detailed information can be provided once interconnection and operational agreements with the incumbent LECs are in place.  Regarding AT&T’s compliance with terms and conditions that have previously been imposed upon incumbent LECs, AT&T stated that the “competitive neutrality” requirements of Section 253(b) of the federal Act do not require identical restrictions on the operations of all local service providers, especially new entrants.  For example, AT&T contended that a new entrant is not required to employ the same rate design as a dominant incumbent carrier like U S WEST.  AT&T stated that it will file interconnection and operational agreements as formulated and as approved, and will also file appropriate tariffs describing its proposed services when the services are actually offered.

Regarding GTE’s comments that it supports a system of “competitively neutral regulation,” AT&T stated that “competitive neutral” regulation is not competitively neutral because it favors incumbent LECs until such time as actual competition exists in the local market.  AT&T agrees with GTE that issues regarding the affect of the Act on local exchange service should be decided by this Commission, but are not required to be resolved prior to AT&T’s amendment to its Certificate.

In response to the comments of the Telcos, AT&T stated that it does not intend initially to serve areas served by local exchange carriers that are subject to the sale by U S WEST to the Telco purchasers.  If the sales are consummated, and AT&T seeks to serve the areas of the Telcos, AT&T stated that it is aware of and will fully comply with Section 252's procedures relating to rural telephone companies.

In the supplemental information provided by AT&T, the Company provided a more detailed map, information regarding tariffs and services, and additional information on AT&T’s plan to begin providing local exchange service.  The new map depicts the service area, including by NXX, where AT&T initially intends to offer service.  AT&T reiterated that it intends to initially offer service only in those exchanges served by GTE and U S WEST.

Regarding tariffs and specific services, AT&T stated that it intends to offer a full array of local exchange services once all interconnection and operational arrangements are completed.  AT&T provided a lengthy list of specific services it intends to provide.

As to additional information about how AT&T intends to begin providing local service, AT&T states that it is not able to provide complete details until the necessary interconnection and operational arrangements have been completed with the incumbent LECs.  AT&T states that it intends to initially offer service primarily on a resale basis, and then evaluate its success in the marketplace before expending capital to construct its own facilities.  AT&T maintains that it has the resources and expertise to provide high quality telecommunication service to the local customers in Idaho.

Based on the additional information provided by AT&T, Staff recommends that the Commission approve the amendment to AT&T’s Certificate to authorize it to provide local exchange telecommunication services in Idaho.  Staff recognizes that specific information regarding the services to be offered by AT&T  and the rates at which they will be provided will need to be provided to the Commission in the future.

Commission Decision

Should the Commission approve the amendment to AT&T’s Certificate of Convenience and Necessity?

Weldon B. Stutzman

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