DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

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COMMISSIONER SMITH

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WORKING FILE

FROM:CHERI C. COPSEY

DATE:DECEMBER 18, 1997

RE:IN THE MATTER OFBLACKFOOT TELEPHONE COOPERATIVE, INC.’S, CITIZENS TELECOMMUNICATIONS COMPANY OF IDAHO’S, GEM STATE UTILITIES CORPORATION, D.B.A. PTI COMMUNICATIONS’ AND PINE TELEPHONE SYSTEMS, INC.’S REQUESTS TO BE DESIGNATED AS ELIGIBLE TELECOMMUNICATIONS CARRIERS- CASE NOS. BTC-T-97-1, CTC-T-97-6, GEM-T-97-1, AND PIN-T-97-1.

If the Commission designatesBlackfoot Telephone Cooperative, Inc., Citizens Telecommunications Company of Idaho, Gem State Utilities Corporation, d.b.a. PTI Communications and Pine Telephone Systems, Inc.,as eligible telecommunications carriers (ETC), then each company would be eligible to receive federal universal service support.  Blackfoot, Citizens, PTI and Pine are rural telephone companies that request waivers of toll control requirements in accordance with the federal Telecommunications Act.

In Order No. 27237, issued December 2, 1997, the Commission found that Blackfoot’s Petition could be processed under Modified Procedure and requested interested persons file written comments regarding this Petition no later than December 16, 1997.  Only the Commission Staff filed written comments.

In Order No. 27232, issued December 2, 1997, the Commission found that Citizens’ Application could be processed under Modified Procedure and requested interested persons file written comments regarding this Application no later than December 16, 1997.  Only the Commission Staff filed written comments.

In Order No. 27238, issued December 2, 1997, the Commission found that PTI’s Petition could be processed under Modified Procedure and requested interested persons file written comments regarding this Petition no later than December 16, 1997.  Only the Commission Staff filed written comments.

In Order No. 27242, issued December 3, 1997, the Commission found that Pine’s Application could be processed under Modified Procedure and requested interested persons file written comments regarding this Application no later than December 17, 1997.  Only the Commission Staff filed written comments.

BACKGROUND

Before a telecommunications carrier may receive federal universal service support, it must be designated as an “eligible telecommunications carrier” (ETC) by the appropriate state regulatory commission.  Federal universal service support includes high-cost support, reimbursement for discounts provided to low-income customers in the Lifeline and Link Up programs,(footnote: 1) and federal support for health care providers.

To be designated as an ETC, each company must offer “services that are supported by federal universal service support mechanisms . . ., either using its own facilities or a combination of its own facilities and resale of another carrier’s services” and “advertise the availability of such services and the charges therefore using media of general distribution.”  47 U.S.C. § 214(e).  In its Universal Service Order released in May 1997, the FCC designated the following services as “core” universal services and must be provided by the carrier in order to qualify as an ETC:

single-party service

voice grade access to the public switched network

touch-tone service

access to emergency services, including 911 and E911

access to operator services

access to interexchange service

access to directory assistance

toll limitation services for qualifying low-income consumers

FCC’s Universal Service Order, CC Docket No. 96-45, FCC 97-157 at ¶¶ 61-82 (codified at 47 C.F.R. § 54.101).  Each company certifies that it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area with the exception of toll control services discussed below.

The FCC authorized state commissions to grant a waiver of the requirement of providing toll control or other toll limitation services “upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing . . . toll limitation.”  FCC’s Universal Service Order (FCC 97-157), ¶ 388; codified at 47 C.F.R. 54.101(c).  Any waiver period should be limited to the existence of those exceptional circumstances and not extend beyond the time necessary for that eligible telecommunications carrier to complete network upgrades.  Id.

The Universal Service Order also requires that the Commission designate the ETC service area.  An ETC service area is defined as a “geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms.”  47 U.S.C. § 214(e)(5).  Where the ETC is also a rural telephone company as defined in the Telecommunications Act of 1996, the service area is defined as the carrier’s study area.  Id.

BLACKFOOT’S, CITIZENS’, PTI’S AND PINE’S REQUESTS

a.Blackfoot Telephone Cooperative, Inc.’s Petition

On November 21, 1997, Blackfoot Telephone Cooperative, Inc. filed a Petition requesting that the Commission designate it as an eligible telecommunications carrier in its service area.  Blackfoot is a telephone cooperative.  It certified that it is a rural telephone company serving approximately 19 business lines and 23 residential lines in Powell, Idaho.  Blackfoot did not request the Commission designate it as a rural telephone company.  Although located in Idaho, this Powell, Idaho service area is part of Blackfoot’s Montana study area and is associated with the Montana 648 LATA.  Petition at p. 1. Although Blackfoot does not currently have any Lifeline customers in its Idaho service area, it stated it will provide those services if qualifying customers initiate service.

Blackfoot claimed that, with the exception of toll control, it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area. Blackfoot requested the Commission waive the toll control requirement for five years and designate it as an ETC.  Blackfoot further requested the Commission apply the ETC designation throughout its Idaho study areas which includes the areas identified in its Certificate of Public Convenience and Necessity.

b.Citizens Telecommunications Company of Idaho’s Application

On November 18, 1997, Citizens Telecommunications Company of Idaho filed an Application requesting that the Commission designate it as an eligible telecommunications carrier in its service area.  It certified that it is a rural telephone company.  Citizens provides services in the Aberdeen, Carey, Cascade, Donnelly, Elk City, Fairfield, Garden Valley, Homedale, Horseshoe Bend, McCall, Marsing, New Meadows, Parma, Riggins, Springfield, Sweet, White Bird, and Wilder exchanges and has fewer than 50,000 access lines in its service territories, provides services in study areas of fewer than 100,000 access lines, and has less than 15% of its access lines in a community of more than 50,000. Citizens did not request the Commission to designate it as a rural telephone company.

Citizens stated that in the case of operator and directory assistance services, it resells the services of other entities but that the physical access is provided by Citizens.  Application at p. 4.  Citizens further stated that, it filed an advice letter with its Application to make modifications to its Telephone Assistance Program and Link Up Tariffs consistent with 47 C.F.R. 54.401 and 54.411-417 that become effective January 1, 1998.

Citizens claimed that, with the exception of toll control, it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area. Citizens requested the Commission waive the toll control requirement and designate it as an ETC.  Citizens further requested the Commission apply the ETC designation throughout its Idaho study areas which includes the areas identified in its Certificate of Public Convenience and Necessity.

c.Gem State Utilities Corporation’s (d.b.a. PTI Communications)Petition

On November 21, 1997, Gem State Utilities Corporation, d.b.a. PTI Communications, filed a Petition requesting that the Commission designate it as an eligible telecommunications carrier in its service area.  PTI certified that it is a rural telephone company as defined by the Telecommunications Act of 1996 and that it serves exchanges in Grand View, Bruneau, Richfield and Grasmere-Riddle. PTI did not request the Commission to designate it as a rural telephone company.

PTI claimed that, with the exception of toll control, it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area. PTI requested the Commission waive the toll control requirement and designate it as an ETC.  PTI further requested the Commission apply the ETC designation throughout its Idaho study areas which includes the areas identified in its Certificate of Public Convenience and Necessity.

d.Pine Telephone Systems, Inc.’s Application

On November 21, 1997, Pine Telephone Systems, Inc. filed an Application requesting that the Commission designate it as an eligible telecommunications carrier in its service area.  Pine certified that it is a rural telephone company as defined by the Telecommunications Act of 1996.  It serves the area that borders the Snake River from the vicinity of Oxbow Dam on the south to Hells Canyon Dam on the north. Pine did not request the Commission to designate it as a rural telephone company.

Pine claimed that, with the exception of toll control, it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area. Pine requested the Commission waive the toll control requirement and designate it as an ETC.  Pine further requested the Commission apply the ETC designation throughout its Idaho study areas which includes the areas identified in its Certificate of Public Convenience and Necessity.

STAFF COMMENTS

Staff confirmed that Blackfoot, Citizens, PTI and Pine each offer the above-listed services with the exception of toll control as defined by the FCC’s Universal Service Order, at ¶ 383, codified at 47 C.F.R. 54.400(c) (effective January 1, 1998).

Blackfoot, Citizens, PTI and Pine, therefore, requested the Commission grant each a waiver of the FCC toll control requirement.  Staff noted that upon a finding that exceptional circumstances exist which might preclude an otherwise eligible carrier from being designated as an ETC, the FCC authorized state commissions to grant a waiver of the requirement of providing toll control for limited periods.  FCC’s Universal Service Order, ¶ 388; codified at 47 C.F.R. 54.101(c).  Staff found that providing toll control would require substantial integration between the central office switch and the billing records of the customer and significant upgrades to the equipment and/or procedures used by Blackfoot, Citizens, PTI and Pine because none of these companies currently has this ability.  Given the complexity of toll control services and the time carriers need to evaluate the technical feasibility of such program, Staff found these circumstances are exceptional within the meaning of the FCC Universal Service Order and recommended granting Blackfoot, Citizens, PTI and Pine a waiver of the requirement to provide toll control.  Staff recommended the waiver be granted for a three-year period, because this is the same period of time the Commission granted to other small Idaho local exchange companies.  If Blackfoot, Citizens, PTI or Pine finds that any of them need additional time to meet this requirement, they may petition for an extension prior to the end of the three year waiver period.

In designating a telephone carrier as an ETC, the Commission must also designate the appropriate service and support areas.  47 U.S.C. § 214 (e)(2) and 47 U.S.C. § 214 (e)(5). Blackfoot, Citizens, PTI and Pine each requested ETC designation for the study areas identified in their respective Certificates of Public Convenience and Necessity. Staff accepted Blackfoot, Citizens, PTI and Pine’s self-certifications that each is a rural telephone company.  Staff therefore concurred with Blackfoot, Citizens, PTI and Pine’s request for designation of their respective Idaho study areas, as identified in their respective Certificates of Public Convenience and Necessity, as the service area for the ETC designation. 47 U.S.C. § 214 (e)(5).

Staff recommended the Commission grant Blackfoot, Citizens, PTI and Pine’s requests.

Commission Decision

Does the Commission want to grant ETC status to Blackfoot, Citizens, PTI and Pine?  Does the Commission want to waive the toll control requirement?  Does the Commission want to designate the ETC service area as Blackfoot, Citizens, PTI and Pine’s study areas as described in their respective Certificates of Public Convenience and Necessity?

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Cheri C. Copsey

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**FOOTNOTES**

1:

The FCC Lifeline program currently reduces charges for low-income consumers in those states participating in the program.  Link Up assists low-income subscribers to acquire new telephone service by paying half of the first $60.00 charge for the installation of service.  Idaho participates in both programs.